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HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

2000 Regular Session

Volume IV

**Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2000,
and in the Two Hundred and Eighth
Year of the Commonwealth**

**Begun on Tuesday, the Fourth Day of January, 2000, and Adjourned
Sine Die on Friday, April 14, 2000**

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Regular Session of 2000.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Wilda Bond, Kathy Green, and Stacy Smither prepared the *House Journal* for the 2000 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2000

TABLE OF CONTENTS

2000 Regular Session

VOLUME I

Text of January 4, 2000 through February 18, 2000 Pages 1 through 1482

VOLUME II

Text of February 22, 2000 through March 8, 2000 Pages 1483 through 2722

VOLUME III

Text of March 9, 2000 through March 21, 2000 Pages 2723 through 4307

VOLUME IV

Text of March 22, 2000 through April 14, 2000 Pages 4309 through 5417

VOLUME V

Appendix A - List of Senate Membership Pages 5419 through 5424
Appendix B - Final Budget Memorandum Pages 5425 through 6589

VOLUME VI

Appendix B - Final Budget Memorandum Pages 6590 through 7247
Appendix C - History of Action Tables Pages 7249 through 7329
Appendix D - Roll Call Votes Pages 7331 through 7455
Appendix E - Subject Index Pages 7457 through 7667

MARCH 22, 2000

FIFTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Burt Paden, Church of Christ, Lawrenceburg.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 21, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 302, SB 310, SB 321, SB 332, HB 662,** and **HB 663**. (Time: 2:10 p.m.)

Message in regard to **HB 100**: The Senate has passed **HB 100** by way of Senate Committee Substitute and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 103**: The Senate has passed **HB 103** by way of Senate Committee Substitute and Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 643**: The Senate has passed **HB 643** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Representative Draud moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Draud moved the adoption of the following **Legislative Citation No. 133.**

The House of Representatives of the Commonwealth of Kentucky hereby welcomes the members of the Dixie Heights High School Chamber Choir upon the occasion of their visit to the Chambers of the House of Representatives on this day of the 2000 Regular Session of the Kentucky General Assembly. These talented and enthusiastic students are further offered sincere gratitude upon performing for the members of this distinguished body. The members of this august body are delighted to join Representative Jon E. Draud and Representative Charles R. Walton in applauding the performance of the Dixie Heights High School Chamber Choir, under the skillful direction of Holly W. Judd; in expressing sincere appreciation to them for demonstrating their interest in the legislative process by their visit today; and in extending to them best wishes for continued success and good fortune. Done in Frankfort, this twenty-second day of March, in the year two thousand.

Legislative Citation No. 133 was adopted without objection.

Introduction of Resolutions

HR 173, by Representative Riner: A RESOLUTION urging the medical schools of Kentucky to adopt policies that would make the Commonwealth the nation's premier state in having the highest percentage of students with a disability who are admitted to and graduate from its three medical schools.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Economic Development: **SB 372**

Health and Welfare: **HR 170**

Local Government: **SB 347, SB 350**

State Government: **SB 379**

House Floor: **HR 171, HR 172**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **SB 28, SB 119**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Judiciary: **SB 226**

Report of Committees

The Committee on Education reported **SB 42, SB 317,** and **SCR 88** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 42, AN ACT relating to the observance of holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. ***The calendar for each local school district shall not include the last Monday in May, in observance of Memorial Day, unless the local school board votes and approves using the day as a make-up instructional day.***

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in of subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

SB 317, AN ACT relating to exceptional children and youth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student poses a threat to the safety of other students or school staff and cannot be placed into a state-funded agency program. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(3) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(4) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(5) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(6) (a) Suspension of exceptional children, as defined in KRS 157.200, ***shall be considered a change of educational placement if:***

1. ***The child is removed*** for more than~~[a total of]~~ ten (10) ***consecutive*** days during a school year***; or***

2. ***The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another***~~[shall constitute a change of educational placement]~~.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c)~~[(b)]~~If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion ***and during a suspension after a student is suspended for more than a total of ten (10) days during a school year***. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(7) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

Section 2. KRS 157.200 is amended to read as follows:

(1) "Exceptional children and youth" means persons under twenty-one (21) years of age who differ in one (1) or more respects from ***same age peers***~~[average or normal children]~~ in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit from the regular or usual facilities or educational programs of the public schools in the districts in which they reside. The Department of Education, through administrative regulations promulgated by the Kentucky Board of Education, shall interpret the statutory definitions of exceptionality. An exceptionality is any trait so defined in this section ***or*** by administrative regulations ***promulgated by***~~[of]~~ the Kentucky Board of Education. Requirements of average daily attendance for exceptional classes shall be regulated by statute, or in the absence of direction by administrative regulations promulgated by the Kentucky Board of Education. Categories of exceptionalities included within, but not limited by, this definition are as follows:

(a) "***Orthopedic impairment***~~[Physically disabled or orthopedically impaired]~~" means a severe ***physical***~~[orthopedic]~~ impairment ***of bone or muscle*** which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes physical impairments caused by congenital anomaly, disease, and from other causes.

(b) "Other health impaired" means limited strength, vitality, or alertness, ***including a heightened alertness to environmental stimuli,*** due to a chronic or acute health problem which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. Chronic health problems may include, but are not be limited to, a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, diabetes, attention deficit disorder, attention deficit hyperactive disorder, or acquired immune deficiency syndrome.

(c) "~~[Communication disorder or]~~Speech or language ***impairment***~~[impaired]~~" means a ***communication*** disorder ***such as stuttering***~~[in language]~~, ***impaired*** articulation, ***impaired language, impaired voice, delayed acquisition of language, or absence of language that***~~[voice, or fluency, which]~~ adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education.

(d) "Hearing impairment" means a physiological hearing loss:

1. Ranging from mild to profound, which is either permanent or fluctuating, and of such a degree that the pupil is impaired in the processing of linguistic information via the auditory channel either with or without amplification; or
2. That adversely affects educational performance so that specially designed instruction is required for the child or youth to benefit from education.

The term shall include both deaf and hard of hearing children.

(e) "Mental disability" means a deficit or delay in intellectual and adaptive behavior functioning, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education, and which is typically manifested during the developmental period.

(f) "Specific learning disability" means a disorder in one (1) or more of the psychological processes primarily involved in understanding or using spoken or written language which selectively and significantly interferes with the acquisition, integration, or application of listening, speaking, reading, writing, reasoning, or mathematical abilities. The disorder is lifelong, intrinsic to the individual, and adversely affects educational performance to the extent that specially designed instruction is required in order for the pupil to benefit from education. The term does not include a learning problem which is the direct result of:

1. A hearing impairment;
2. Visual, physical, mental, or emotional-behavioral disabilities; or
3. Environmental, cultural, or economic differences.

(g) "Emotional-behavioral disability" means a condition characterized by behavioral excess or deficit which significantly interferes with a pupil's interpersonal relationships or learning process to the extent that it adversely affects educational performance so that specially designed instruction is required in order for the pupil to benefit from education.

(h) "Multiple disability" means a combination of two (2) or more disabilities resulting in significant learning, developmental, or behavioral and emotional problems, which adversely affects educational performance and, therefore, requires specially designed instruction in order for the pupil to benefit from education. A pupil is not considered to have a multiple disability if the adverse effect on educational performance is solely the result of deaf-blindness or the result of speech or language disability and one (1) other disabling condition.

(i) "Deaf-blind" means auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that the pupil cannot be appropriately educated in special education programs designed solely for pupils with hearing impairments, visual impairments, or severe disabilities, unless supplementary assistance is provided to address educational needs resulting from the two (2) disabilities.

(j) "Visually disabled" means a visual impairment, which, even with correction, adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes both partially seeing and blind pupils.

(k) "Developmental delay" means a significant discrepancy between a child's current level of performance in basic skills such as cognition, language or communication, self-help, social-emotional, or fine or gross motor, and the expected level of performance for that age. The term shall be used only with children ages three (3) through eight (8).

(l) "Traumatic brain injury" means an acquired impairment to the neurological system resulting from an insult to the brain which adversely affects educational performance and causes temporary or permanent and partial or complete loss of:

1. Cognitive functioning;
2. Physical ability; or
3. Communication or social-behavioral interaction.

The term does not include a brain injury that is congenital or degenerative, or a brain injury induced by birth trauma.

(m) "Autism" means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance.

Characteristics of autism include:

1.[~~Irregularity and impairment in communication;~~

~~2.~~] Engagement in repetitive activity and stereotyped movement;

2.[~~3.~~] Resistance to environmental change or change in daily routine; and

3.[~~4.~~] Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability.

(n) "Gifted and talented student" means a pupil identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts.

(2) "Special education" means specially designed instruction to meet the unique needs of an exceptional child or youth.

(3) "Special educational facilities" means physical facilities designed or adapted to meet the needs of exceptional children and youth, and approved according to regulations promulgated by the Kentucky Board of Education.

(4) "Related services" means ***transportation and the***[~~such~~] developmental, corrective, and other supportive services[~~ as are~~] required to assist an exceptional child or youth to benefit from special education, and may include, but are not limited to, ***speech-language pathology and audiology services;*** psychological services*;*[~~,~~] physical and occupational therapy*;* ***recreation, including therapeutic recreation; early***[~~,~~] identification and assessment of disabilities*;*[~~,~~] counseling services, ***including rehabilitation counseling; orientation and mobility services;***[~~ and~~] medical services for diagnostic or evaluation purposes***; school health services; social work services in schools; and parent counseling and training***.

(5) "Transition services" means a coordinated set of activities for a pupil designed within an outcome-oriented process, that promotes movement from school to post-school activities. The term includes:

(a) Postsecondary education;

(b) Vocational training; and

(c) Integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

The coordinated set of activities shall be based on the individual pupil's needs, taking into account the pupil's preferences and interests, and shall include instruction, community experience, the development of employment, and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

SCR 88, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study teacher compensation and benefits.

WHEREAS, the Commonwealth of Kentucky has a commitment to improve the education of its citizens to allow each of them to be competitive in a global economy; and

WHEREAS, in spite of all of the intense effort to change and improve the public education system since 1990, Kentucky's teachers are paid approximately $3,000 less than the average teacher earns in the seven surrounding states and approximately $5,000 less than the national average; and

WHEREAS, the Task Force on Teacher Quality found that though significant progress has been made in raising Kentucky's teachers' salaries since 1990, continued efforts to improve base teachers' salaries are needed to be competitive with surrounding states and to move up in the national rankings; and

WHEREAS, the Task Force on Teacher Quality also found that compensation and benefits beyond the maintenance of a base salary are needed to recognize and reward teachers who stay in the classroom and perform at high levels, or those who assume additional duties or hard-to-fill assignments; and

WHEREAS, there is a problem with providing adequate, affordable health insurance for teachers and other public employees, there is a need to study methods of providing adequate and affordable health insurance for teachers, public employees, and retirees including self-insuring teachers, public employees, and retirees; and

WHEREAS, additional study and funding are needed to implement these and other recommendations that will ensure that Kentucky's teachers are rewarded adequately;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Interim Joint Committee on Education through one of its subcommittees is directed to study the issues related to teacher compensation and benefits and to develop recommendations so that by 2004 Kentucky's teachers' salaries and benefits shall mirror the national average.

Section 2. The Interim Joint Committee on Education shall be authorized to contract for consultant services. The Interim

Joint Committee on Education and its subcommittee shall report the findings and recommendations, with enabling legislation, to the Legislative Research Commission no later than September 1, 2001.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the identified issues to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Transportation reported **SB 69, SB 78, SB 313,** with House Committee Amendment attached thereto, **SB 398, SJR 73, SJR 104,** and **SJR 110** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 69, AN ACT relating to the Railroad Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet shall have the responsibility of regulating railroads within the Commonwealth. The cabinet shall delegate the Office of Intermodal Programs to carry out the provisions of this section. The secretary may employ such personnel as necessary to perform the duties, functions, and responsibilities associated with the regulation of railroads. The office shall have all the powers previously vested in the Kentucky Railroad Commission. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to carry out the provisions of this section.

Section 2. KRS 174.020 is amended to read as follows:

(1) The Transportation Cabinet in addition to the departments set forth in KRS 174.015 shall consist of the following organizational units:

  (a) Office of the Secretary of Transportation comprised of the secretary of transportation, a deputy secretary for administration, a deputy secretary for legal affairs, and the Office of Environmental Affairs created by paragraph *(g)*[~~(h)~~] of this subsection;

  (b)[~~Railroad Commission, attached to the Office of the Secretary for administrative purposes;~~

  ~~(c)~~] Office of Public Affairs, headed by an executive director who shall serve as media spokesperson and shall be responsible for all matters relating to public relations and information;

  (c)[~~(d)~~]Office of General Counsel, headed by an executive director responsible for general office administration, and the general counsel who provides legal services for the cabinet;

  (d)[~~(e)~~]Office of Personnel Management, headed by an executive director who shall be responsible for the implementation of programs and practices for the recruitment, utilization, and management of cabinet personnel;

  (e)[~~(f)~~] Office of Minority Affairs, headed by an executive director who shall be responsible for the development and implementation of programs and procedures for assisting minorities in employment and contractual relations with the cabinet;

  (f)[~~(g)~~] Kentucky Airport Zoning Commission established by KRS 183.861, which shall be attached to the Division of Aeronautics;

  (g)[~~(h)~~]Office of Environmental Affairs, headed by an executive director who shall oversee all Transportation Cabinet environmental issues, activities, and programs; developing and implementing policies; and procedures. The position of executive director is a policy-making position under the provisions of KRS 18A.175. The Office of Environmental Affairs may direct the Transportation Cabinet's environmental activities, associated personnel, and facilities when necessary to assure compliance with environmental laws and regulations; and

  (h)[~~(i)~~] Office of Policy and Budget, headed by an executive director who shall be responsible for administering the budget functions of the Transportation Cabinet.

(2) The executive directors of the Offices of Public Affairs, General Counsel, Personnel Management, Minority Affairs, Environmental Affairs, and Policy and Budget shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050. The positions of director in the Division of Fleet Management, Division of Professional Services, and Division of Environmental Analysis are policy-making positions pursuant to KRS 18A.175.

Section 3. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return

for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts; ***and***

(h)[~~Each Railroad Commissioner; and~~

~~(i)~~] All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to *(g)*[~~(h)~~] of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments; and

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else.

Section 4. KRS 11A.040 is amended to read as follows:

(1) *A*[~~No~~] public servant, in order to further his own economic interests, or those of any other person, shall ***not*** knowingly disclose or use confidential information acquired in the course of his official duties.

(2) *A*[~~No~~] public servant shall ***not*** knowingly receive, directly or indirectly, any interest or profit arising from the use or loan

of public funds in his hands or to be raised through any state agency.

(3) *A*[~~No~~] public servant shall ***not*** knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) *A*[~~No~~] public servant shall ***not*** knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or

(d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction.

(5) *A*[~~No~~] public servant shall ***not*** knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) *A*[~~No~~] former officer or public servant listed in KRS 11A.010(9)(a) to *(g)*[~~(h)~~] shall ***not***, within six (6) months of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction.

(7) *A*[~~No~~] present or former officer or public servant listed in KRS 11A.010(9)(a) to *(g)*[~~(h)~~] shall ***not***, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

(8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(10) Without the approval of his appointing authority, *a*[~~no~~] public servant shall ***not*** accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

(a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

(b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

(c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

(11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Section 5. KRS 11A.050 is amended to read as follows:

(1) Each officer, each public servant listed in KRS 11A.010(9)(a) to *(g)*[~~(h)~~], and each candidate shall file a statement of financial disclosure with the commission, as follows:

(a) Each officer and each public servant listed in KRS 11A.010(9)(a) to *(g)*[~~(h)~~] who occupies his position during any portion of a calendar year shall file the statement for that entire calendar year on or before April 15 of the following year, whether or not he remains an officer or public servant as listed in KRS 11A.010(9)(a) to *(g)*[~~(h)~~].

(b) A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.

(2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.

(3) The statement shall include the following information for the preceding calendar year:

(a) Name and entire residential and business address of filer;

(b) Title of position or office whereby filing is required;

(c) Any other occupations of filer and spouse;

(d) Positions held by the filer or his spouse in any business, partnership, or corporation for profit;

(e) Names and addresses of all businesses in which the filer, his spouse, or dependent children has or had an interest of ten thousand dollars ($10,000) at fair market value or five percent (5%) ownership interest or more;

(f) Sources of gross income of the filer or his spouse, as well as information concerning the nature of the business, and the form of the income;

(g) Sources of retainers received by the filer or his spouse;

(h) Any representation or intervention for compensation by the filer or his spouse for any person before policy-making entities in state government;

(i) All positions of a fiduciary nature in a business;

(j) Information regarding any real property in which there is an interest of ten thousand dollars ($10,000) or more held by the filer, his spouse, or dependent children;

(k) Sources of gifts of money or property with a retail value of more than two hundred dollars ($200) to the filer, his spouse, or dependent children, except those from spouse, parents, or grandparents; and

(l) Identity of creditors owed more than ten thousand dollars ($10,000), except debts arising from the purchase of consumer goods.

Paragraphs (a) to (l) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

Section 6. KRS 11A.201 is amended to read as follows:

As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

(1) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(2) (a) "Expenditure" means any of the following that is made to, or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or a member of the staff of any of the officials listed in this paragraph:

1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;

2. A contract, promise, or agreement to make an expenditure; or

3. The purchase, sale, or gift of services or any other thing of value.

(b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection. "Expenditure" does not include a payment, contribution, gift, purchase, or any other thing of value that is made to or on behalf of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this paragraph who works for a state agency for which the executive agency lobbyist is not registered to influence;

(3) "Employer" means any person who engages an executive agency lobbyist;

(4) "Engage" means to make any arrangement, and "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity;

(5) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:

1. An executive agency lobbyist, his employer, a real party in interest, or a member of the immediate family of the executive agency lobbyist, his employer, or a real party in interest; and

2. Any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this subparagraph.

(b) "Financial transaction" does not include any transaction or activity described in paragraph (a) of this subsection if it is available to the general public on the same terms;

(6) "Executive agency" means the office of an elected executive official, a cabinet listed in KRS 12.250, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to his authority. "Executive agency" does not include any court or the General Assembly;

(7) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated;

(8) (a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his main purposes on a substantial basis.

(b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his fiduciary capacity as a representative of his agency, college, university, or political subdivision;

(9) (a) "Executive agency lobbying activity" means contacts made to promote, oppose, or otherwise influence the outcome of an executive agency decision by direct communication with an elected executive official, the secretary of any cabinet listed in KRS 12.250, any executive agency official, or a member of the staff of any one of the officials listed in this paragraph.

(b) "Executive agency lobbying activity" does not include any of the following:

1. The action of any person having a direct interest in executive agency decisions, if the person acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any person listed in paragraph (a) of this subsection for the redress of grievances or other proper purposes;

2. Contacts made for the sole purpose of gathering information contained in a public record; or

3. Appearances before public meetings of executive agencies;

(10) "Executive agency official" means an officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency;

(11) "Aggrieved party" means a party entitled to resort to a remedy;

(12) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, ***and*** Commissioner of Agriculture~~[, and Railroad Commissioners]~~;

(13) "Person" means an individual, proprietorship, firm, partnership, limited liability partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, limited liability corporation, association, club, committee, organization, or group of persons acting in concert;

(14) "Staff" means any employee of the office of the Governor, or a cabinet listed in KRS 12.250, whose official duties are to formulate policy and who exercises administrative or supervisory authority, or who authorizes the expenditure of state funds;

(15) "Real party in interest" means the person or entity on whose behalf an executive agency lobbyist is acting, if that person or

entity is not the employer of the executive agency lobbyist; and

(16) "Substantial basis" means contacts which are intended to influence a decision that involves one or more disbursements of state funds in an amount of at least five thousand dollars ($5,000) per year.

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
4. Department of Law.
    (a) Attorney General.
5. Department of the Treasury.
    (a) Treasurer.
6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.

~~[9. Railroad Commission.]~~

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
        (1) Kentucky Board of Education.
        (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.

- (e) Kentucky Historical Society.
- (f) Kentucky Teachers' Retirement System Board of Trustees.
- (g) Kentucky Center for the Arts.
- (h) Kentucky Craft Marketing Program.
- (i) Kentucky Commission on the Deaf and Hard of Hearing.
- (j) Governor's Scholars Program.
- (k) Governor's School for the Arts.
- (l) Operations and Development Office.
- (m) Kentucky Heritage Council.
- (n) Kentucky African-American Heritage Commission.
- (o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
   - (a) Environmental Quality Commission.
   - (b) Kentucky Nature Preserves Commission.
   - (c) Department for Environmental Protection.
   - (d) Department for Natural Resources.
   - (e) Department for Surface Mining Reclamation and Enforcement.
   - (f) Office of Legal Services.
   - (g) Office of Information Services.
4. Transportation Cabinet:
   - (a) Department of Highways.
   - (b) Department of Vehicle Regulation.
   - (c) Department of Administrative Services.
   - (d) Department of Fiscal Management.
   - (e) Department of Rural and Municipal Aid.
   - (f) Office of General Counsel.
   - (g) Office of Public Affairs.
   - (h) Office of Personnel Management.
   - (i) Office of Minority Affairs.
   - (j) Office of Environmental Affairs.
   - (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
   - (a) Department of Administration and Support.
   - (b) Department of Job Development.
   - (c) Department of Financial Incentives.
   - (d) Department of Community Development.
   - (e) Tobacco Research Board.
   - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
   - (a) Public Service Commission.
   - (b) Department of Insurance.
   - (c) Department of Housing, Buildings and Construction.
   - (d) Department of Financial Institutions.
   - (e) Department of Mines and Minerals.
   - (f) Department of Public Advocacy.
   - (g) Department of Alcoholic Beverage Control.
   - (h) Kentucky Racing Commission.
   - (i) Board of Claims.

(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Aging Services.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Office of Capital Plaza Operations.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

(w) Kentucky Kare Health Insurance Authority.

10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor-Management Relations and Mediation.
    (m) Office of General Counsel.
    (n) Workers' Compensation Funding Commission.
    (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of General Counsel.
13. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workforce Analysis and Research.
    (o) Office for Administrative Services.

(p) Office for Policy and Budget.
(q) Office of Personnel Services.
(r) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
(a) Kentucky Commission on Community Volunteerism and Service.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. Office of the Chief Information Officer.

Section 8. KRS 15.105 is amended to read as follows:

(1) The Attorney General, with the approval of the head of the cabinet[~~ or the commission~~] involved shall appoint assistant attorneys general for the Transportation Cabinet, the Finance and Administration Cabinet, ***and*** the Revenue Cabinet[~~, and for the Railroad Commission~~].

(2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective agency to which they are assigned.

Section 9. KRS 82.400 is amended to read as follows:

(1) If any person desires to offer for dedication by recorded plat any public way or easement within the city limits, he shall file with the city legislative body a map or plat of the territory bounded, intersected, or immediately adjacent to the proposed public way or easement, showing the proposed name, nature, and dimensions of the public way or easement offered for dedication. If the city legislative body decides the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) Except as provided for by ordinance in a city of the first class or in a county containing a city of the first class, subdivision regulations which have been adopted as provided in KRS Chapter 100, and where streets or public ways as dedicated on the final subdivision plat have been constructed, inspected, and approved in accordance with the subdivision regulations, then the procedure for filing the map or plat with the city legislative body as required in subsection (1) of this section shall be waived, and the dedicated street or public way shall automatically be deemed beneficial to the public interest and shall be, by operation of law, automatically accepted for maintenance by the city forty-five (45) days after inspection and final approval, and shall be a public way for all purposes, KRS Chapter 83A, regarding a city's adoption of ordinances notwithstanding.

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city as a public way or easement, subject to acceptance by the city. The city may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the

city for all purposes. The lack of an actual dedication to the city, or of a record title on the part of the city, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years. Provided, however, that[~~no~~] property of a ***railroad company***[~~carrier by rail, as defined in KRS 276.010(3),~~] shall ***not*** be presumed to be dedicated as a public way or easement under this section or any other rule of law in force in this state unless the ***company***[~~carrier~~] consents to said dedication in writing.

(4) Any person who shall lodge for record in the county clerk's office, and any county clerk or deputy who shall receive for record or permit to be lodged for record, any plat, map, deed, or other instrument contrary to the provisions of this section, shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense.

Section 10. KRS 247.232 is amended to read as follows:

As used in KRS 247.234 and 247.236:

(1) "Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" does not include coin-operated amusement devices that carry no more than two (2) persons and devices regulated by the Federal Aviation Administration, the ***Kentucky Transportation Cabinet, the***[~~state and~~] federal railroad commission, and vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources;

(2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement. "Amusement attraction" does not include tractor pulls, auto or motorcycle events, horse shows, rodeos and other animal shows, games and concessions, nonmechanical playground equipment, such as swings, slides, seesaws, climbers, trampolines, rider-propelled merry-go-rounds, stationary spring-mounted animal devices, and physical fitness equipment, unless designated by regulation of the Commissioner;

(3) "Carnival" means an enterprise offering amusement or entertainment to the public by means of one (1) or more amusement rides and attractions;

(4) "Fair" means an enterprise principally devoted to the exhibition of products of agriculture, science, or industry in conjunction with the operation of one (1) or more amusement rides or attractions;

(5) "Owner" means any person who owns an amusement ride or attraction or, in the event that the amusement ride or attraction is leased, the lessee; and

(6) "Commissioner" means the Commissioner of Kentucky Department of Agriculture or his authorized representative.

Section 11. KRS 277.070 is amended to read as follows:

(1) Every railroad company proceeding to construct its road in or through any county shall file and have recorded at its expense, in the office of the county clerk of that county, a map of the route showing the center and the width of the proposed road. If, after the map is filed and recorded, the location or the proposed route is changed, a map showing the change, and the center and width thereof, shall be filed and recorded at the expense of the company in the office of the county clerk of the county in which the change is made.

(2) If the proposed route indicated by the map crosses the line of any other railroad, the company filing the map shall, before commencing the construction of the road near the point of crossing, notify the ***Kentucky Transportation Cabinet. The cabinet shall notify***[~~Railroad Commission, which shall give notice to~~] the company whose road it is proposed to cross, and to the company proposing to cross it, that if any objection is made to the crossing the ***cabinet***[~~commission~~] will meet, at a stated time and place, to consider the question of approving the crossing. The ***cabinet***[~~commission~~] may determine the manner in which the crossing shall be made in order to protect against accidents.

Section 12. KRS 277.170 is amended to read as follows:

If the Kentucky Transportation Cabinet determines it is in[~~Whenever, in the opinion of the Railroad Commission,~~] the public interest ***for***[~~requires that~~] a gate be erected or maintained or a flagman stationed at any highway crossing within one mile of the corporate limits of any city, the ***cabinet***[~~commission~~] shall give the superintendent or manager of the railroad written notice that a gate or flagman is required. If a gate is required, the notice shall prescribe the time within which the gate shall be erected***,***[~~and~~] the character of gate required, and shall designate the hours during which a man shall be kept in charge of the gate. If a flagman is required, the notice shall designate the hours during which he shall be kept at the crossing. The railroad company shall comply with the provisions of the notice. The ***cabinet***[~~Railroad Commission~~] may authorize the discontinuance of the gate or flagman whenever, in its judgment, the public interest no longer requires it.

Section 13. KRS 277.240 is amended to read as follows:

(1) ***A***[~~No~~] bridge or passway constructed over any railroad, except in cities having power under their charters to regulate the height of[~~such~~] bridges or passways, shall ***not*** be at a less height than twenty-two (22) feet above the track of the road, unless by the written authority of the ***Kentucky Transportation Cabinet***[~~Railroad Commission~~].

(2) Whenever there is, over any railroad track, a bridge, tunnel or other obstruction at a height of less than seven (7) feet above the roof of the freight cars used or hauled on that railroad, the officers of the railroad shall erect and keep in repair at or near the bridge, tunnel or obstruction, and on each side thereof, a rod or beam placed across the track at such height and at such distance from the bridge, tunnel or obstruction as the ***cabinet***[~~Railroad Commission~~] directs, and from the rod or beam shall be suspended straps, ropes, or cords of such length as the ***cabinet***[~~commission~~] determines, and not greater than six (6) inches apart, for a width of eight (8) feet, directly over the track.

Section 14. KRS 277.300 is amended to read as follows:

If any accident on a railroad is attended with loss of life, the company operating the road on which the accident occurred shall notify the ***Kentucky Transportation Cabinet***[~~Railroad Commission~~] within five (5) days after the accident occurred and shall furnish the ***cabinet***[~~commission~~] all information requested by it concerning the cause of the accident.

Section 15. KRS 277.990 is amended to read as follows:

(1)[~~Any corporation that possesses, controls, maintains or operates any railroad or part thereof in this state in violation of the provisions of subsection (1) of KRS 277.020 shall be fined not less than one thousand dollars ($1,000) for each offense, and any officer, agent or employee of such a corporation who assists the corporation in such a violation shall be fined not less than one hundred dollars ($100) for each offense. Each day or part thereof that the corporation possesses, controls, maintains or operates the railroad or part thereof, and each day or part thereof that the officer, agent or employee assists therein, shall constitute a separate offense.~~

~~(2)~~] Any railroad company that violates or permits any of its agents or employees to violate any of the provisions of KRS 277.110, subsection (1) of 277.160, 277.170, 277.180, 277.210, 277.230 or 277.300 shall, in addition to subjecting itself to any damages that may be caused by such violation, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense, to be recovered in the Franklin Circuit Court or in the circuit court of any county through which the railroad operates a line of road.

(2)[~~(3)~~]Any person who violates any of the provisions of subsection (2) of KRS 277.160 shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100) for each offense.

(3)[~~(4)~~]Any railroad company that violates, or permits any of its agents or employees to violate, any of the provisions of KRS 277.190, shall, in addition to subjecting itself to liability for any damage caused thereby, be fined not less than ten dollars ($10) nor more than fifty dollars ($50) for each offense. Prosecutions under this subsection shall not be commenced after six (6) months from the commission of the offense charged in the prosecution.

(4)[~~(5)~~]Any person who violates any of the provisions of KRS 277.250 shall be fined fifty dollars ($50) or imprisoned for thirty (30) days, or both.

(5)[~~(6)~~]Any owner or operator of a railroad running through or within this state as a common carrier of persons or property or both, for compensation, who either operates for its employees, or who furnishes to its employees for their transportation to or from the place or places where they are required to labor, a rail track motor car that has not been fully equipped as required by KRS 277.245, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense and each day or part of a day it operates or furnishes each of such rail track motor cars not so equipped as provided in KRS 277.245 to its employees for operation to or from the place or places where they are required to work shall constitute a separate offense.

(6)[~~(7)~~]Any railroad company that violates the provisions of KRS 277.200 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense. If a grade crossing or drawbridge is obstructed by two (2) or more trains stopping and standing thereon in succession without allowing accumulated highway or water traffic to pass, the obstruction by each such successive train shall constitute a separate offense.

Section 16. KRS 506.120 is amended to read as follows:

(1) *A*[~~No~~] person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall ***not*** do any of the following:

(a) Organize or participate in organizing a criminal syndicate or any of its activities;

(b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;

(c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;

(d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;

(e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;

(f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;

(g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, or 244.600.

(2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony.

(3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:

(a) Extortion or coercion in violation of KRS 514.080~~[, 276.280, 276.310,]~~ or 521.020;

(b) Engaging in, promoting, or permitting prostitution in violation of KRS Chapter 529;

(c) Any theft offense as defined in KRS Chapter 514;

(d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or Section 226 of the Constitution;

(e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;

(f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

Section 17. The following KRS sections are repealed:

15.145 Assistant attorney general for Railroad Commission.
276.010 Definitions.
276.020 Service and facilities of common carriers to be adequate -- Rates and practices to be just and reasonable.
276.030 Railroad Commission to enforce laws relating to common carriers.
276.040 Organization of Railroad Commission -- Quorum.
276.050 Districts from which railroad commissioners to be elected.
276.060 Office of Railroad Commission -- Employees -- Salaries -- Transportation.
276.070 Appointments or gifts not to be solicited or accepted by, or offered to, railroad commissioner.
276.080 Fees for copies of records of commission.
276.090 Annual reports by railroads and express companies to Railroad Commission.
276.100 Power of Railroad Commission to secure evidence.
276.110 Public disclosure of information obtained by Railroad Commission.
276.120 Annual report of Railroad Commission to Governor.
276.130 Express companies and carriers by rail to publish, file and display rate schedules.
276.140 Written statement of rate to be given on request.
276.150 Deviation from rate schedule prohibited -- Special contract rates permitted.
276.160 Notice of change of rate schedules.
276.170 Hearing on proposed change in rate, classification, regulation or practice.
276.180 Powers of Railroad Commission as to rates, classifications, regulations and practices of express companies and carriers by water.
276.190 Interstate freight rates, duties of Railroad Commission concerning.
276.200 Joint rates and traffic agreements -- Regulations as to more than one rate, regulation or practice.
276.210 Rate control arrangements between carriers by water and other carriers prohibited -- One not to own interest in other.
276.220 Demurrage charges.
276.230 Long and short hauls.
276.240 Transportation of passengers free or at reduced rates forbidden -- Exceptions.
276.250 Record of passenger transportation given free or at reduced rates -- Report to Attorney General.
276.260 Transportation of property free or at reduced rates by express company or carrier by water forbidden -- Exceptions.
276.270 Transportation of persons for purpose of intimidating public officers forbidden.
276.280 Extortion.
276.290 Unjust discrimination.
276.300 Undue or unreasonable preference.
276.310 Hearings and orders as to extortion.
276.320 Hearings and orders as to unjust discrimination or undue or unreasonable preference.
276.330 Railroad Commission may hear complaints concerning common carriers or act on own motion.
276.340 Form of complaints -- Conduct of hearings.
276.350 Revocation or modification of orders of Railroad Commission.

276.360 Evidentiary effect of award of damages.
276.370 Enforcement of award or order -- Appeal.
276.375 Judicial review of orders of Railroad Commission.
276.380 Sheriff to serve summonses and orders of Railroad Commission.
276.390 Common carrier statutes are in addition to other laws.
276.400 Two railroads using same line to furnish facilities for traffic without discrimination.
276.410 Railroad Commission may notify railroad to make repairs or improvements.
276.420 Railroads to furnish accommodations for freight and passengers -- Checking of baggage.
276.430 Waiting rooms -- Ticket offices -- Notice of delay of train -- Announcement of stations and route.
276.450 Transportation of explosives by carriers -- Rules of Railroad Commission governing.
276.460 Unclaimed freight, express or baggage, how sold.
276.470 Transportation companies to issue bills of lading -- Liability for loss of or damage to freight.
276.480 Abandonment of passenger service.
276.490 Obstructing or interfering with Railroad Commission.
276.500 Limitation of prosecutions and actions.
276.510 Venue of prosecutions and actions.
276.550 Agreements with Federal Railroad Administration -- Approval.
276.990 Penalties.
277.020 Foreign railroad companies must incorporate in Kentucky and accept Constitution -- Effect of organization and filing prior to July 1, 1946.
277.030 Continuation of limited railroad grants and franchises.
277.100 Purchase or sale of railroad property and franchises -- Subscription to stock in other railroads.
277.120 Borrowing by railroad company -- Mortgages -- Bonds.
277.130 Plan for reorganization of insolvent railroad company.
277.140 Judicial approval of plan and acceptance by creditors.
277.150 Sale of property where no plan proposed -- Reorganization by purchasers.
280.160 Reorganization of insolvent companies operating bridges across boundary streams.
424.310 Railroad Commission hearings.

Section 18. Sections 1 to 17 of this Act shall take effect December 1, 2000, if a constitutional amendment proposing to abolish the Kentucky Railroad Commission is enacted by the 2000 General Assembly and approved by the voters in the November 2000 general election. Otherwise, Sections 1 to 17 of this Act shall be void.

SB 78, AN ACT relating to a special license plate to benefit Ducks Unlimited.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any person who complies with the provisions of KRS 186.186 and who can provide proof of membership in Ducks Unlimited may apply for a Ducks Unlimited license plate.

(2) A Ducks Unlimited license plate shall be the color and design selected by Kentucky Ducks Unlimited and approved by the Transportation Cabinet. The name Kentucky and the annual renewal decal shall appear on the plate. The Transportation Cabinet, in consultation with Kentucky Ducks Unlimited, shall develop a system for numbering of the Ducks Unlimited license plate. Kentucky Ducks Unlimited may direct the Transportation Cabinet to assign specific plate numbers to particular members.

(3) In addition to the fees required by KRS 186.186, a person applying for a Ducks Unlimited license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230. When applying for an annual renewal registration decal, a person with a Ducks Unlimited license plate shall pay a ten dollar ($10) fee, in addition to the renewal fee established in KRS 186.186(2). The ten dollar ($10) fee shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230.

(4) The ten dollar ($10) initial fee and the ten dollar ($10) renewal fee collected under subsection (3) of this section shall be forwarded quarterly by the Transportation Cabinet to Kentucky Ducks Unlimited for use in furthering their wetlands conservation programs in Kentucky.

Section 2. This Act takes effect January 1, 2001.

SB 313, AN ACT relating to operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days. The person shall apply for an operator's license in the office of the circuit clerk of the county where he lives. The application form shall require the applicant's full legal name and signature, date of birth, Social Security number, sex, present resident address, other information necessary to permit the application to also serve as an application for voter registration, and brief physical description of the applicant. If the person is not a United States citizen, the application form shall be accompanied by a photographic copy of the person's employment authorization card, visa card to enter the United States, or permanent residency card issued by the United States Department of Immigration Services and, if applicable, a photographic copy of the person's international driving permit. All applications shall state:

(a) If the applicant has previously been licensed as an operator and by what nation or state; and

(b) Other information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing a color photograph of the applicant. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The plastic laminated operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(3)[~~ After January 1, 1996, a person may, before the renewal date for his operator's license, request a circuit clerk to issue a new plastic laminated operator's license that does not contain the person's Social Security number. The person shall be charged the fee established by KRS 186.531 for renewing an operator's license if the person requests a license pursuant to this subsection.~~

~~(4)~~] Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4)[~~(5)~~]The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(5)[~~(6)~~]The circuit clerk shall issue a color photo nondriver's identification card to any person who resides in the county who applies in person in the office of the circuit clerk. A nondriver's identification card shall be subject to the provisions of this section. An application for a nondriver's identification card shall be accompanied by a signed Social Security card and a birth certificate, or other proof of the applicant's date of birth provided under subsection (1) of this section. If the person is not a United States citizen, an application for a nondriver's identification card shall be accompanied by a photographic copy of the person's employment authorization card, visa card to enter the United States, or permanent residency card issued by the United States Department of Immigration Services. The application shall require the applicant to provide his or her full legal name and most current resident address that may include, but is not limited to, a mailing address, post office box, or an address provided on a voter registration card. If an applicant for a nondriver's identification card is under the age of twenty-one (21), the applicant's most current resident address shall be required unless a current resident address is not available, in which case a mailing address, post office box, or an address provided on a voter registration card may be used. Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal possessor of the address provided on the application form, the applicant shall swear that he has permission from the legal possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by

use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(6)[~~(7) Military personnel and other~~]Licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(7) ***If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section or a commercial driver's license issued under KRS Chapter 281A by mail. If the citizen was issued an "under 21" or "under 21 CDL" operator's license, upon the date of his or her twenty-first birthday, the "under 21" or "under 21 CDL" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21".***

(8) ***A citizen of the Commonwealth renewing an operator's license by mail under subsection (7) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (7) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature".***

(9) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(10)[~~(8)~~] The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(11)[~~(9)~~] If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(12)[~~(10)~~] An operator's license pursuant to this section shall be designated a Class D license.

(13)[~~(11)~~] A person shall not have more than one (1) license.

(14)[~~(12)~~] Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (1) and (6) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

Section 2. KRS 186.410 is amended to read as follows:

(1) Every person except those exempted by KRS 186.420 and KRS 186.430 shall before operating a motor vehicle, motorcycle, or moped upon a highway secure an operator's license as provided in this chapter.

(2) All original, renewal, and duplicate licenses for the operation of motor vehicles, motorcycles, or mopeds shall be issued by the Transportation Cabinet. Applications for renewal licenses shall be made every four (4) years ***within thirty (30) days after the birth date***[~~during the birth month~~] of the applicant. A license shall not be issued until the application has been certified by the cabinet.

(3) All color photo nondriver identification cards shall be valid for four (4) years from the date of issuance.

(4) A person may, at any time between the age of sixteen (16) and eighteen (18), enroll in one (1) of the following driver training programs:

(a) The person may enroll in a driver's education course administered by a school district; or

(b) The person may enroll in a driver training school licensed pursuant to KRS Chapter 332 which offers a course meeting or exceeding the minimum standards established by the Transportation Cabinet; or

(c) The person may seek to enroll in state traffic school before the person's eighteenth birthday. Persons enrolling in state traffic school pursuant to this paragraph shall not be required to pay a fee.

(5) If, for any reason, a person fails to successfully complete the required driver training pursuant to subsection (4) of this section within one (1) year of being issued an operator's license, the Transportation Cabinet shall enroll the person in state traffic school and cancel or suspend the operator's driving privileges until the person completes state traffic school.

The House Committee Amendment No. 1 to **SB 313** is as follows:

On page 4, line 5, after the word "***section***", by deleting the words "***or a commercial driver's license issued under KRS Chapter 281A***"; and

On page 4, line 6, after the words "***"under 21"***", by deleting the words "***or "under 21 CDL"***"; and

On page 4, line 7, by deleting the word "***or***"; and

On page 4, line 8, by deleting the words "***"under 21 CDL"***".

SB 398, AN ACT relating to the registration of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.120 is amended to read as follows:

(1) Application for a first certificate of registration or title and plate, shall be made by the owner to the county clerk of the county in which he resides, except that, if a vehicle is purchased from a dealer other than in the county in which the purchaser for use resides, the purchaser, or the dealer on behalf of the purchaser, may make application for registration to the county clerk in either the county in which the purchaser resides, or in the county in which the dealer's principal place of business is located. ***If a vehicle application for registration or title is presented to the county clerk of a dealer's principal place of business rather than the purchaser's county of residence, the clerk shall process the documents in a manner similar to that of other applications, except the amount of money retained by the clerk under KRS 138.460(3) shall be divided equally between the clerk of the county in which the dealer's principal place of business is located and the clerk of the county in which the purchaser resides.***

(2) (a) When purchaser of a vehicle upon which a lien is to be recorded is a resident of a county other than that of the dealer, the application for registration or title may be made to the county clerk in either county. The lien must be recorded in the county of the purchaser's residence.

(b) If vehicle application for registration or title is presented to the county clerk of dealer's location rather than purchaser's residence, the clerk shall process documents in a manner similar to that of any application, with the exception that the AVIS system shall be programmed in a manner that the title shall not be issued from Frankfort until the lien information has been entered by the county clerk of the purchaser's residence.

(3) (a) A new vehicle, when first registered or titled in this state, shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for sale.

(b) Except as otherwise provided in this chapter, a used vehicle not previously registered or titled in this state shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for resale.

(4) If the owner of a vehicle required to be registered or titled in this state does not reside in the Commonwealth, the vehicle shall be registered or titled with the county clerk of the county in which the vehicle is principally operated.

(5) If the owner of a vehicle is other than an individual and resides in the Commonwealth, the vehicle shall be registered or titled with the county clerk in ~~[either]~~ the county in which the owner resides~~[or in the county in which the vehicle is principally operated]~~.

SJR 73, A JOINT RESOLUTION directing the Transportation Cabinet to name portions of United States Route 60 and Kentucky Route 180 in Boyd County the "Purple Heart Highway" and to erect appropriate highway signs.

WHEREAS, it is the Armed Forces of the United States that defend our great nation from foreign powers that act against our national interests and seek to tarnish the principles of freedom and justice; and

WHEREAS, countless soldiers, sailors, airmen, and marines have risked their lives in defense of the Constitution that makes our country the model for the free world; and

WHEREAS, rows of plain white headstones, both here at home and around the world, stand as a testimony to the ultimate sacrifice made to protect our freedom and our way of life; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need ; and

WHEREAS, these recipients of the Purple Heart deserve our thanks, recognition, and respect for their devotion and service to our Commonwealth and our nation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name United States Route 60 from milepoint 0.800 to milepoint 2.518 and Kentucky Route 180 from milepoint 4.023 to milepoint 8.617 in Boyd County the "Purple Heart Highway".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Purple Heart Highway" to facilitate their erection upon the effective date of this Resolution.

Section 3. The Clerk of the Senate shall transmit copies of this Resolution to the Secretary of the Transportation Cabinet and to the District Highway Engineer in Flemingsburg, Kentucky.

SJR 104, A JOINT RESOLUTION naming a bridge in Pike County in honor of Charles Douglas "C.D." Roberts.

WHEREAS, Charles Douglas "C.D." Roberts is a native son of Pikeville, Kentucky; and

WHEREAS, Charles Douglas "C.D." Roberts bravely served his country during World War II as a daring navy pilot; and

WHEREAS, upon his return from World War II, Charles Douglas "C.D." Roberts attended the University of Kentucky where he earned a degree in engineering; and

WHEREAS, Charles Douglas "C.D." Roberts is a self-employed businessman who worked in the coal industry, as well as the coal and gas industry in east Kentucky; and

WHEREAS, as a trusted citizen of Pike County Charles Douglas "C.D." Roberts was elected county surveyor and served in that capacity for sixteen years; and

WHEREAS, Charles Douglas "C.D." Roberts has been active in many community and civic organizations throughout his lifetime;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the bridge located under the exit ramp of United States Route 23 South and Hambley Boulevard in Pike County in honor of "C.D." Roberts. The project number for this bridge is 12-MP-098-0023B00183P.

Section 2. The Transportation Cabinet shall erect signs within thirty (30) days of the effective date of this Resolution at each bridge approach to the bridge located under the exit ramp of United States Route 23 South and Hambley Boulevard in Pike County that read "The C.D. Roberts Bridge."

SJR 110, A JOINT RESOLUTION naming the Hugh E. Spear Memorial Bridge in Cumberland County.

WHEREAS, Hugh E. Spear was born on December 12, 1903, the son of Bal and Mary Branham Spear; and

WHEREAS, Hugh E. Spear was the proud father of two sons: Mayford and Alton Spear, and three daughters: Sylvia Traylor, Juanita Cook, and Mildred Brammer; and

WHEREAS, Hugh E. Spear was an active force in the political and civic history of Cumberland County for the greater part of the twentieth century; and

WHEREAS, Hugh E. Spear served the citizens of Cumberland County as County Judge; and

WHEREAS, Hugh E. Spear served the citizens of the Commonwealth under the administration of Governor A.B. "Happy" Chandler; and

WHEREAS, Hugh E. Spear left this earth on February 4, 1987, with his place in the history of Cumberland County secure; and

WHEREAS, It is fitting and proper that Hugh E. Spear be remembered and honored by the citizens of Cumberland County and of this Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the bridge on Kentucky Route 61 over the Cumberland River in Cumberland County in memory of Hugh E. Spear.

Section 2. The Transportation Cabinet shall erect signs within thirty (30) days of the effective date of this Resolution at each approach to the bridge on Kentucky Route 61 over the Cumberland River in Cumberland County that read "The Hugh E. Spear Memorial Bridge."

The Committee on Judiciary reported **SB 218,** with House Committee Amendments attached thereto, **SB 224,** with House Committee Substitute attached thereto, **SB 256,** with House Committee Substitute attached thereto, **SB 260, SB 261, SB 263,** with House Committee Substitute attached thereto, **SB 309, SB 316,** and **SCR 4,** with House Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 218, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

(a) Sue and be sued in its corporate name;

(b) Adopt a corporate seal and a symbol;

(c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

(d) Appoint agents upon which process may be served;

(e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;

(f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and

(g) Make, execute, and effectuate any and all agreements or contracts including:

1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars ($100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars ($400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar ($400,000) threshold. Contracts for personal service shall be reviewed in accordance with KRS 45A.690 to 45A.725.

2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

(2) The corporation shall:

(a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

(b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include, but are not limited to, disclosure of gross revenues, expenses, and net proceeds for the period;

(c) Adopt by administrative regulation a system of continuous internal audits;

(d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation;

(e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;[~~ and~~]

(f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request***; and***

(g) The Kentucky Lottery Corporation and the Cabinet for Families and Children shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for

Families and Children on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize..

SECTION 2. A NEW SECTION OF KRS 205.712 TO 205.800 IS CREATED TO READ AS FOLLOWS:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit Court, District Court, or family court that require entry into the state case registry under subsection (3) of Section 5 of this Act shall be entered on forms adopted by the Administrative Office of the Courts after consultation with the Cabinet for Families and Children. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

SECTION 3. A NEW SECTION OF KRS 205.712 TO 205.800 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Families and Children and the Revenue Cabinet shall work together to develop a system of information sharing for the effective and efficient collection of child support payments. Any requirement included in KRS Chapter 131, 205, 403, or 405 or any other law for either cabinet for the confidentiality of individual personal and financial records shall not be violated in the process of this coordination.

SECTION 4. A NEW SECTION OF KRS 205.712 TO 205.800 IS CREATED TO READ AS FOLLOWS:

The cabinet shall, to the extent federal funding is available, establish a statewide program to help low-income, noncustodial parents find and keep employment. The goal of the program shall be to reduce welfare payments by helping participants become financially responsible for their children. The cabinet shall involve local social service providers and state and local government agencies, and may provide incentives to employers who hire program participants. The program shall also encourage noncustodial parents to be actively involved in their children's lives. Noncustodial parents may be required to enroll in the program by court order.

Section 5. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support Enforcement is established in the Cabinet for Families and Children.

(2) The duties of the Division of Child Support Enforcement, or its designee, shall include:

- (a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 669;
- (b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;
- (c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;
- (d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;
- (e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;
- (f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;
- (g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;
- (h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;
- (i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212;
- (j) Administratively establish child support orders which shall have the same force and effect of law;
- (k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;
- (l) Impose a penalty for failure to comply with an administrative subpoena;
- (m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;
- (n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another

state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides;~~[and]~~

(o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas***; and***

(p) Collect interest on arrearages at the current legal rate and distribute the interest collected to the obligee in accordance with 42 U.S.C. sec. 657.

(3) Effective September 30, 1999, the cabinet shall establish a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.

(4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.

(5) After the establishment of the disbursement unit child support collection system, the cabinet or its designee shall serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(6) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is canceled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

(7) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom services are sought.

(8) The cabinet shall determine the name of each obligor who owes an arrearage of at least five thousand dollars ($5,000). After notification to the obligor owing an arrearage amount of five thousand dollars ($5,000), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.

(9) The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after ***six (6) months***~~[one (1) year]~~ of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).

(10) The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.

(11) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.

(12) Except for cases administered by the cabinet under 42 U.S.C. secs. 651 et seq. which shall be afforded the appeal process set forth by KRS 405.450(3), an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.

(13) A dispute hearing shall be conducted by the cabinet in accordance with KRS 405.450. The only basis for a dispute hearing shall be a mistake in fact.

(14) The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be

required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to KRS 205.745 shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.

(15) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

(16) The Cabinet for Families and Children shall forward to the Office of the Attorney General a list of names of delinquent obligors, and in cooperation with the Office of the Attorney General, shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement Section 16 of this Act.

(17) The cabinet shall compare a quarterly report provided by the Finance and Administration Cabinet of all tort claims made against the state by individuals with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(18) The cabinet shall prepare and distribute to the cabinet's designee for the administration of the child support program information on child support collections and enforcement. The information shall include a description of how child support obligations are:

(a) Established;

(b) Modified;

(c) Enforced;

(d) Collected; and

(e) Distributed.

(19) The cabinet's designee for the administration of the child support program shall distribute, when appropriate, the following:

(a) Information on child support collections and enforcement; and

(b) Job listings posted by employment services.

Section 6. KRS 205.745 is amended to read as follows:

(1) A child support lien or levy in favor of the cabinet shall be enforceable against all real and personal property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the cabinet. In accordance with subsection (4) of this section, the lien or levy shall have first priority over any other lien assigned by any other agency, association, or corporation.

(2) The cabinet shall file a notice of lien or levy with the county clerk of any county or counties in which the obligor has interest in property and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the cabinet shall disclose the specific amount of liability to any interested party legally entitled to the information. The notice, when so filed, shall be conclusive to all persons of the lien or levy on the property having legal situs in that county. The lien or levy shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien or levy shall attach to all interest in real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee pursuant to KRS Chapter 64.

(3) The cabinet may force the sale of the property of the parent subject to the lien or levy for the payment of assigned child support, and distribute the proceeds in accordance with 42 U.S.C. secs. 651 et seq.

(4) The cabinet's lien or levy shall be superior to any mortgage or encumbrance created after the notice of lien or levy is recorded. The cabinet shall give full faith and credit to child support liens or levies created in other states without requirement of judicial notice or proceedings prior to enforcement, but the liens or levies shall subordinate to any child support lien or levy of the cabinet that relates to the same obligor and property.

(5) The cabinet shall not enforce the lien by foreclosure action on a principal residence of an obligor if to do so would deprive a minor child of the obligor of a homestead, unless the failure to enforce the lien by foreclosure would result in the loss of the home of the minor child of the custodial parent.

(6) In the event another lienholder initiates a foreclosure action against the property of the obligor, the cabinet may protect its

interest in the property by filing an answer counterclaim and cross-claim and participate in the proceeds of any sale of the property as its interests may appear.

(7) The cabinet shall notify the obligor of the filing of its claim of lien or levy and the opportunity to contest and appeal the action in accordance with the requirements of KRS Chapter 13B.

(8) Liens or levies resulting from actions provided by this section shall be inapplicable to an account maintained at a financial institution that is or may be subject to the data match system established by KRS 205.774, and is subordinate to any prior lien, levy, or security interest perfected by a financial institution or other legitimate lien or levy holder.

(9) The cabinet may enforce the lien by the immobilization with vehicle boots of a vehicle registered in the obligor's name. The cabinet shall establish procedures for vehicle booting by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. The procedures shall require that the following conditions are verified before a vehicle is immobilized with a vehicle boot:

(a) There is an arrearage that equals or exceeds six (6) months without payment;

(b) The obligor has failed, after receiving appropriate notice, to comply with subpoenas or warrants relating to child support proceedings;

(c) A lien has been filed in the county where the vehicle is kept;

(d) The Department of Vehicle Regulation shows that the vehicle identification number for the vehicle to be booted is registered in the obligor's name;

(e) The vehicle to be booted is solely owned by the obligor, co-owned by the obligor and current spouse, or owned by a business in which the obligor is the sole proprietor;

(f) A notice of intent has been sent to the obligor, unless there is reason to believe that the obligor will leave town or hide the vehicle;

(g) The obligor does not contact the cabinet within ten (10) days of notice to negotiate a settlement; and

(h) A target date is set for booting.

The administrative regulations shall also require that the cabinet send a cancellation notice to the obligor and the sheriff if a decision is made to terminate the booting of a vehicle. Once a vehicle has been booted, the cabinet shall attempt to reach a payment agreement with the obligor including terms for the release of the vehicle. If an agreement is not reached with the obligor, the cabinet may proceed with the sale of the vehicle. If the cabinet sells a vehicle, the cabinet shall notify the Department of Vehicle Regulation to issue clear title to the new owner of the vehicle.

Section 7. KRS 205.755 is amended to read as follows:

(1) Any payments of support made on behalf of a needy dependent child who is receiving public assistance shall be deposited by the cabinet in a manner prescribed by the secretary which is consistent with state and federal law and regulations. Distribution of any payments so made shall be made in a manner prescribed by the secretary which is consistent with state and federal law and regulations.

(2) The cabinet may establish a system to receive and process all child support payments using automated payment options including, but not limited to, telephone and personal computer payment methods.

SECTION 8. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

Before distribution of the funds, a list of individuals or entities that are awarded tobacco settlement moneys from the tobacco settlement agreement fund under KRS 248.654, or related state or federal legislation, shall be forwarded by the cabinet, agency, corporation, authority, or other entity responsible for the distribution of the moneys to all designees of the Cabinet for Families and Children for the administration of the child support program.

Section 9. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, retirement and pension funds, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to public assistance as defined under Title IV-A of the Federal Social Security Act, and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight-line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) ***In any proceeding to establish support for a child whose legal parent is a minor, the court may order a parent of the minor parent to be responsible for a court ordered child support obligation for the child until the minor parent reaches the age of eighteen (18) years. The parent of the minor parent shall be notified of the proceeding to establish support for a child and the opportunity to contest and appeal the action in accordance with the requirements of KRS Chapter 13B.***

(f) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(g)~~[(f)]~~ Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include, but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(h)~~[(g)]~~ "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child;
2. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;
3. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and
4. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE	TWO	THREE	FOUR	FIVE	SIX OR

	CHILD	CHILDREN				MORE
$ 0$ 60	$ 60	$ 60	$ 60	$ 60	$ 60	
100 60	60	60	60	60	60	
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000195	303	325	330	335	340	
1,100212	324	384	389	394	399	
1,200229	346	433	446	451	456	
1,300246	367	460	504	510	515	
1,400262	392	491	554	576	582	
1,500277	417	522	588	642	650	
1,600293	437	548	618	674	717	
1,700308	458	574	647	706	755	
1,800322	478	599	675	736	788	
1,900336	495	620	699	763	816	
2,000350	512	642	723	789	844	
2,100364	529	663	747	815	872	
2,200376	546	684	771	841	900	
2,300389	563	706	795	868	928	
2,400401	580	727	819	894	956	
2,500413	597	749	843	920	984	
2,600424	614	770	867	946	1,012	
2,700435	630	790	889	970	1,038	
2,800445	646	809	911	994	1,064	
2,900455	662	829	934	1,019	1,090	
3,000465	677	849	956	1,043	1,116	
3,100475	693	868	978	1,067	1,142	
3,200485	709	888	1,001	1,092	1,168	
3,300495	725	908	1,023	1,116	1,194	
3,400506	741	928	1,045	1,140	1,220	
3,500516	757	947	1,067	1,164	1,246	
3,600526	773	967	1,090	1,189	1,272	
3,700536	790	988	1,113	1,215	1,299	
3,800548	808	1,011	1,139	1,243	1,329	
3,900559	826	1,033	1,164	1,270	1,359	
4,000571	844	1,056	1,190	1,298	1,388	
4,100580	862	1,078	1,215	1,326	1,418	
4,200592	880	1,101	1,240	1,353	1,448	
4,300603	898	1,123	1,266	1,381	1,477	
4,400615	916	1,146	1,291	1,409	1,507	
4,500626	933	1,161	1,316	1,435	1,535	
4,600636	949	1,181	1,338	1,459	1,561	

4,700647	964	1,200	1,360	1,483	1,586
4,800657	980	1,220	1,381	1,507	1,612
4,900667	995	1,239	1,403	1,531	1,637
5,000676	1,010	1,257	1,424	1,554	1,661
5,100686	1,025	1,275	1,444	1,576	1,685
5,200695	1,039	1,294	1,465	1,599	1,709
5,300705	1,054	1,312	1,486	1,621	1,733
5,400714	1,069	1,330	1,506	1,644	1,757
5,500724	1,083	1,348	1,527	1,666	1,781
5,600733	1,098	1,367	1,548	1,689	1,805
5,700743	1,113	1,385	1,568	1,712	1,829
5,800753	1,127	1,403	1,589	1,734	1,853
5,900762	1,142	1,421	1,610	1,757	1,877
6,000772	1,157	1,440	1,630	1,779	1,901
6,100781	1,171	1,458	1,651	1,802	1,926
6,200791	1,186	1,476	1,672	1,824	1,950
6,300800	1,198	1,498	1,690	1,844	1,970
6,400808	1,209	1,511	1,705	1,860	1,988
6,500816	1,219	1,524	1,720	1,876	2,005
6,600823	1,230	1,538	1,735	1,893	2,023
6,700830	1,240	1,551	1,750	1,909	2,040
6,800837	1,251	1,564	1,764	1,925	2,058
6,900844	1,261	1,577	1,779	1,942	2,075
7,000851	1,272	1,591	1,794	1,958	2,093
7,100858	1,282	1,604	1,809	1,975	2,110
7,200865	1,293	1,617	1,824	1,991	2,127
7,300872	1,303	1,630	1,839	2,007	2,145
7,400879	1,313	1,644	1,854	2,024	2,162
7,500885	1,324	1,657	1,869	2,040	2,179
7,600891	1,333	1,668	1,881	2,053	2,194
7,700896	1,342	1,679	1,893	2,066	2,208
7,800901	1,350	1,691	1,905	2,079	2,223
7,900907	1,359	1,702	1,917	2,093	2,238
8,000912	1,368	1,713	1,929	2,106	2,252
8,100917	1,377	1,724	1,941	2,119	2,267
8,200922	1,386	1,736	1,953	2,133	2,281
8,300928	1,395	1,747	1,965	2,146	2,296
8,400933	1,404	1,758	1,977	2,159	2,311
8,500938	1,413	1,769	1,989	2,173	2,325
8,600944	1,421	1,780	2,002	2,186	2,340
8,700949	1,430	1,792	2,014	2,199	2,354
8,800954	1,437	1,800	2,024	2,210	2,366
8,900958	1,444	1,809	2,033	2,220	2,376
9,000962	1,450	1,817	2,042	2,230	2,387
9,100966	1,457	1,825	2,052	2,241	2,398
9,200971	1,463	1,833	2,061	2,251	2,408
9,300975	1,470	1,842	2,070	2,261	2,419
9,400979	1,476	1,850	2,079	2,271	2,430

9,500983	1,483	1,858	2,089	2,281	2,440
9,600988	1,489	1,866	2,098	2,291	2,451
9,700992	1,496	1,874	2,107	2,301	2,461
9,800996	1,502	1,883	2,117	2,311	2,472
9,9001,000	1,508	1,891	2,126	2,321	2,483
10,0001,005	1,515	1,899	2,165	2,331	2,493
10,4001,022	1,541	1,932	2,202	2,372	2,536
10,5001,027	1,548	1,940	2,212	2,382	2,546
10,6001,032	1,554	1,948	2,221	2,392	2,557
10,7001,036	1,561	1,956	2,230	2,402	2,567
10,8001,040	1,567	1,965	2,240	2,412	2,578
10,9001,044	1,573	1,973	2,249	2,422	2,589
11,0001,049	1,580	1,981	2,258	2,432	2,599
11,1001,053	1,587	1,989	2,268	2,443	2,610
11,2001,058	1,593	1,997	2,277	2,453	2,620
11,3001,062	1,600	2,005	2,286	2,463	2,631
11,4001,066	1,606	2,013	2,295	2,473	2,642
11,5001,070	1,613	2,021	2,305	2,483	2,652
11,6001,075	1,619	2,029	2,314	2,493	2,663
11,7001,079	1,626	2,037	2,323	2,503	2,673
11,8001,084	1,633	2,046	2,333	2,513	2,684
11,9001,088	1,639	2,054	2,342	2,523	2,695
12,0001,093	1,646	2,062	2,351	2,533	2,705
12,1001,097	1,653	2,070	2,361	2,544	2,716
12,2001,102	1,659	2,078	2,370	2,554	2,726
12,3001,106	1,666	2,086	2,379	2,564	2,737
12,4001,110	1,672	2,094	2,388	2,574	2,748
12,5001,114	1,679	2,102	2,398	2,584	2,758
12,6001,119	1,685	2,110	2,407	2,594	2,769
12,7001,123	1,692	2,118	2,416	2,604	2,779
12,8001,128	1,699	2,127	2,426	2,614	2,790
12,9001,132	1,705	2,135	2,435	2,624	2,801
13,0001,137	1,712	2,143	2,444	2,634	2,811
13,1001,141	1,719	2,151	2,454	2,645	2,822
13,2001,146	1,725	2,159	2,463	2,665	2,832
13,3001,150	1,732	2,167	2,472	2,665	2,843
13,4001,154	1,738	2,175	2,481	2,675	2,854
13,5001,158	1,745	2,183	2,491	2,685	2,864
13,6001,163	1,751	2,191	2,500	2,695	2,875
13,7001,167	1,758	2,199	2,509	2,705	2,885
13,8001,172	1,765	2,208	2,519	2,715	2,896
13,9001,176	1,771	2,216	2,528	2,725	2,907
14,0001,181	1,778	2,224	2,537	2,735	2,917
14,1001,185	1,785	2,232	2,547	2,746	2,928
14,2001,190	1,791	2,240	2,556	2,756	2,938
14,3001,194	1,798	2,248	2,565	2,766	2,949
14,4001,198	1,804	2,256	2,574	2,776	2,960
14,5001,202	1,811	2,264	2,584	2,786	2,970

14,6001,207	1,817	2,272	2,593	2,796	2,981
14,7001,211	1,824	2,280	2,602	2,806	2,991
14,8001,216	1,831	2,289	2,612	2,816	3,002
14,9001,220	1,837	2,297	2,621	2,826	3,013
15,0001,225	1,844	2,305	2,630	2,836	3,023

Section 10. KRS 403.213 is amended to read as follows:

(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances. ***Emancipation of the child shall not terminate the obligation of child support arrearages that accrued while the child was an unemancipated minor.***

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for Families and Children or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area; and

(f) The Attorney General or his designee, who shall be an attorney from his office.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

SECTION 11. A NEW SECTION OF KRS 405.405 TO 405.520 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Families and Children's designee under KRS 205.712(6) for the administration of child support may compile a list of the names of persons under its jurisdiction who have a child support arrearage that equals or exceeds six (6) months without payment, or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16). The cabinet may furnish this list to the newspaper of general circulation in that county for publication.

(2) The Division of Child Support Enforcement in the Cabinet for Families and Children shall determine uniform standards for publication. The cabinet is authorized to promulgate the necessary administrative regulations under KRS Chapter 13A to implement the provisions of this section.

(3) For purposes of this section, "newspaper of general circulation" means a publication bearing a title or name, regularly issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one (1) year period, which is published for the dissemination of news of general interest, and is circulated generally in the political subdivision in which it is published and in which notice is to be given. In any county where a publication fully complying with this definition

does not exist, the Cabinet for Families and Children may publish this list in the publication utilized by the Circuit Court Clerk of the county for publication of other legal notices in the county. A newspaper that is not engaged in the distribution of news of general interest to the public, but that is primarily engaged in the distribution of news of interest to a particular group of citizens, is not a newspaper of general circulation.

SECTION 12. A NEW SECTION OF KRS 405.405 TO 405.520 IS CREATED TO READ AS FOLLOWS:

The Kentucky Lottery Corporation and the Cabinet for Families and Children shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Families and Children on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize.

Section 13. KRS 405.430 is amended to read as follows:

(1) When a parent presents himself to the cabinet for the voluntary establishment of paternity and clear evidence of parentage is not present, the cabinet shall pay when administratively ordered the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established.

(2) The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

(3) In a contested paternity case, the child, the mother, and the putative father shall submit to genetic testing upon a request of any of the parties, unless the person or guardian of the person who is requested to submit to genetic testing shows good cause, taking into account the best interests of the child, why the genetic tests cannot be performed. The request shall be supported by a sworn statement of the party, requesting that the test be performed, which shall include the information required by 42 U.S.C. sec. 666(a)(5)(B)(i) or (ii).

(4) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may administratively establish a child support obligation based upon a voluntary acknowledgment of paternity as set forth in KRS Chapter 406, the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.

(5) The cabinet shall recognize a voluntary acknowledgment of paternity as a basis for seeking a support order, irrespective of the alleged father's willingness to consent to a support order.

(6) When in the best interest of the child, the cabinet may review and adjust a parent's child support obligation or child care obligation as established by the cabinet, upon a request of the cabinet when an assignment has been made, or upon either parent's petition if the amount of the child support awarded under the order differs from the amount that would be awarded in accordance with KRS 403.212. The cabinet shall notify parents at least once every three (3) years of the right to a review.

(7) In establishing or modifying a parent's monthly child support obligation, the cabinet may use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the adjustment to eligible orders in accordance with KRS 403.212. The cabinet shall utilize information, including financial records, about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.

(8) In cases in which past-due support is owed for a child receiving public assistance under Title IV-A of the Federal Social Security Act, the cabinet shall issue an administrative order, or seek a judicial order, requiring the obligated parent to participate in work activities***, or educational or vocational training activities for at least twenty (20) hours per week***, unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

(9) The cabinet may disclose financial records only for the purpose of establishing, modifying, or enforcing a child support obligation of an individual. A financial institution shall not be liable to any individual for disclosing any financial record of the individual to the cabinet attempting to establish, modify, or enforce a child support obligation.

(10) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

(11) In any case where a person or entity fails to respond to a subpoena within the specified time frame, the cabinet shall impose a penalty.

(12) No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report, document, or financial record

used in determining child support or child care obligations.

(13) If a person knowingly or by reason of negligence discloses a financial record of an individual, that individual may pursue civil action for damages in a federal District Court or appropriate state court. No liability shall arise with respect to any disclosure which results from a good faith, but erroneous, interpretation. In any civil action brought for reason of negligence of disclosure of financial records, upon finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to:

(a) The sum of the greater of one thousand dollars ($1,000) for each act of unauthorized disclosure of financial records; or

(b) The sum of the actual damages sustained by the plaintiff resulting from the unauthorized disclosure; plus

(c) If willful disclosure or disclosure was a result of gross negligence, punitive damages, plus the costs, including attorney fees, of the action.

(14) The cabinet shall issue an administrative order or seek a judicial order requiring a parent with a delinquent child support obligation, as defined by administrative regulation promulgated under Section 16 of this Act, to participate in the program described in Section 4 of this Act to help low-income, noncustodial parents find and keep employment unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

Section 14. KRS 405.470 is amended to read as follows:

(1) The secretary may collect delinquent child support by issuing an order to withhold and deliver earnings or property of any kind, real and personal, ***including booting of vehicle in accordance with administrative regulations promulgated under Section 6 of this Act,*** which the secretary has reason to believe are due, owing or belonging to the parent.

(2) Fifty percent (50%) of the disposable earnings against which a support debt is asserted shall be exempt and may be delivered to the obligor. The only other exemptions allowed shall be those provided in KRS 427.060.

(3) The order shall continue to operate until the child support debt is paid in full and shall take priority over all other debts and creditors of such debtor.

Section 15. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) (a) In a proceeding for dissolution of marriage, legal separation, or child support, either party, with notice to the opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)***(h)***~~[(g)]~~, and the Social Security numbers of all parties subject to the motion. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.

(b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4) If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.

(5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.

(6) A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

SECTION 16. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Office of the Attorney General shall receive from the Cabinet for Families and Children a list of names of delinquent obligors as defined in administrative regulations promulgated under this section.

(2) The Office of the Attorney General in cooperation with the Cabinet for Families and Children shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

(3) The Office of the Attorney General shall:

(a) Publish and update the list on an appropriate agency internet site; and

(b) Distribute to all designees of the cabinet for the administration of the child support program, a "most wanted" poster that includes names, and photos if available, of delinquent obligors whose whereabouts are unknown or unverified, or who if known, refuse to meet their child support obligations. The poster shall be posted locally by the designee of the cabinet for the administration of the child support program in public locations.

Section 17. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted to the state. The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state such balance shall be paid to him.

(2) The Finance and Administration Cabinet shall provide the Cabinet for Families and Children with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Families and Children shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

Section 18. This Act may be cited as the Kentucky's Kids Come First Act of 2000.

The House Committee Amendment No. 1 to **SB 218** is as follows:

On page 6, line 10, by deleting the bracketing and strikethroughs, and

On page 6, line 13, by deleting "*; and*", and

On page 6, line 14, by deleting same in its entirety, and

On page 6, line 15, by deleting everything before, but not including, the final period.

The House Committee Amendment No. 2 to **SB 218** is as follows:

On page 14, line 1, through page 22, line 24, to delete the same and to renumber the ensuing sections accordingly.

SB 224, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined ***monthly adjusted parental gross***[~~parental~~] income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their ***combined monthly*** adjusted ***parental*** gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) ***If health care insurance coverage is reasonable and available at the time the request for coverage is made, the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care insurance coverage for the child, in addition to the amount ordered under the child support guidelines.***

(b) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(c)[~~(b)~~]If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their ***combined monthly*** adjusted ***parental*** gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) The court order shall include the Social Security numbers of all parties subject to a support order.

(10) In any case administered by the Cabinet for Families and Children, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Families and Children may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Families and Children shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

(13) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.

(14) A payment of money received by a child as a result of a parental disability shall be credited against the child support

obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

Section 2. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, retirement and pension funds, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to public assistance as defined under Title IV-A of the Federal Social Security Act, and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight-line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include, but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(g) "Combined ***monthly*** adjusted parental gross income" means the combined ***monthly*** gross incomes of both parents, less any of the following payments made by the parent:

1.[~~The cost of health insurance coverage for the child;~~

~~2.~~] The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;

2.[~~3.~~] The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and

3.[~~4.~~] A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(h) "Split custody arrangement" means a situation where each parent is the residential custodian for one (1) or more children for whom the parents share a joint legal responsibility.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their ***combined monthly*** adjusted ***parental*** gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) ***The child support obligation in a split custody arrangement shall be calculated in the following manner:***

(a) Two (2) separate child support obligation worksheets shall be prepared, one (1) for each household, using the number of children born of the relationship in each separate household, rather than the total number of children born of the relationship.

(b) The nonresidential custodian with the greater monthly obligation amount shall pay the difference between the obligation amounts, as determined by the worksheets, to the other parent.

(7) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
$ 0$ 60	$ 60	$ 60	$ 60	$ 60	$ 60	
100 60	60	60	60	60	60	
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000195	303	325	330	335	340	
1,100212	324	384	389	394	399	
1,200229	346	433	446	451	456	
1,300246	367	460	504	510	515	
1,400262	392	491	554	576	582	
1,500277	417	522	588	642	650	
1,600293	437	548	618	674	717	
1,700308	458	574	647	706	755	
1,800322	478	599	675	736	788	
1,900336	495	620	699	763	816	
2,000350	512	642	723	789	844	
2,100364	529	663	747	815	872	
2,200376	546	684	771	841	900	
2,300389	563	706	795	868	928	
2,400401	580	727	819	894	956	
2,500413	597	749	843	920	984	
2,600424	614	770	867	946	1,012	

2,700435	630	790	889	970	1,038
2,800445	646	809	911	994	1,064
2,900455	662	829	934	1,019	1,090
3,000465	677	849	956	1,043	1,116
3,100475	693	868	978	1,067	1,142
3,200485	709	888	1,001	1,092	1,168
3,300495	725	908	1,023	1,116	1,194
3,400506	741	928	1,045	1,140	1,220
3,500516	757	947	1,067	1,164	1,246
3,600526	773	967	1,090	1,189	1,272
3,700536	790	988	1,113	1,215	1,299
3,800548	808	1,011	1,139	1,243	1,329
3,900559	826	1,033	1,164	1,270	1,359
4,000571	844	1,056	1,190	1,298	1,388
4,100580	862	1,078	1,215	1,326	1,418
4,200592	880	1,101	1,240	1,353	1,448
4,300603	898	1,123	1,266	1,381	1,477
4,400615	916	1,146	1,291	1,409	1,507
4,500626	933	1,161	1,316	1,435	1,535
4,600636	949	1,181	1,338	1,459	1,561
4,700647	964	1,200	1,360	1,483	1,586
4,800657	980	1,220	1,381	1,507	1,612
4,900667	995	1,239	1,403	1,531	1,637
5,000676	1,010	1,257	1,424	1,554	1,661
5,100686	1,025	1,275	1,444	1,576	1,685
5,200695	1,039	1,294	1,465	1,599	1,709
5,300705	1,054	1,312	1,486	1,621	1,733
5,400714	1,069	1,330	1,506	1,644	1,757
5,500724	1,083	1,348	1,527	1,666	1,781
5,600733	1,098	1,367	1,548	1,689	1,805
5,700743	1,113	1,385	1,568	1,712	1,829
5,800753	1,127	1,403	1,589	1,734	1,853
5,900762	1,142	1,421	1,610	1,757	1,877
6,000772	1,157	1,440	1,630	1,779	1,901
6,100781	1,171	1,458	1,651	1,802	1,926
6,200791	1,186	1,476	1,672	1,824	1,950
6,300800	1,198	1,498	1,690	1,844	1,970
6,400808	1,209	1,511	1,705	1,860	1,988
6,500816	1,219	1,524	1,720	1,876	2,005
6,600823	1,230	1,538	1,735	1,893	2,023
6,700830	1,240	1,551	1,750	1,909	2,040
6,800837	1,251	1,564	1,764	1,925	2,058
6,900844	1,261	1,577	1,779	1,942	2,075
7,000851	1,272	1,591	1,794	1,958	2,093
7,100858	1,282	1,604	1,809	1,975	2,110
7,200865	1,293	1,617	1,824	1,991	2,127
7,300872	1,303	1,630	1,839	2,007	2,145
7,400879	1,313	1,644	1,854	2,024	2,162

7,500885	1,324	1,657	1,869	2,040	2,179
7,600891	1,333	1,668	1,881	2,053	2,194
7,700896	1,342	1,679	1,893	2,066	2,208
7,800901	1,350	1,691	1,905	2,079	2,223
7,900907	1,359	1,702	1,917	2,093	2,238
8,000912	1,368	1,713	1,929	2,106	2,252
8,100917	1,377	1,724	1,941	2,119	2,267
8,200922	1,386	1,736	1,953	2,133	2,281
8,300928	1,395	1,747	1,965	2,146	2,296
8,400933	1,404	1,758	1,977	2,159	2,311
8,500938	1,413	1,769	1,989	2,173	2,325
8,600944	1,421	1,780	2,002	2,186	2,340
8,700949	1,430	1,792	2,014	2,199	2,354
8,800954	1,437	1,800	2,024	2,210	2,366
8,900958	1,444	1,809	2,033	2,220	2,376
9,000962	1,450	1,817	2,042	2,230	2,387
9,100966	1,457	1,825	2,052	2,241	2,398
9,200971	1,463	1,833	2,061	2,251	2,408
9,300975	1,470	1,842	2,070	2,261	2,419
9,400979	1,476	1,850	2,079	2,271	2,430
9,500983	1,483	1,858	2,089	2,281	2,440
9,600988	1,489	1,866	2,098	2,291	2,451
9,700992	1,496	1,874	2,107	2,301	2,461
9,800996	1,502	1,883	2,117	2,311	2,472
9,9001,000	1,508	1,891	2,126	2,321	2,483
10,0001,005	1,515	1,899	2,165	2,331	2,493
10,4001,022	1,541	1,932	2,202	2,372	2,536
10,5001,027	1,548	1,940	2,212	2,382	2,546
10,6001,032	1,554	1,948	2,221	2,392	2,557
10,7001,036	1,561	1,956	2,230	2,402	2,567
10,8001,040	1,567	1,965	2,240	2,412	2,578
10,9001,044	1,573	1,973	2,249	2,422	2,589
11,0001,049	1,580	1,981	2,258	2,432	2,599
11,1001,053	1,587	1,989	2,268	2,443	2,610
11,2001,058	1,593	1,997	2,277	2,453	2,620
11,3001,062	1,600	2,005	2,286	2,463	2,631
11,4001,066	1,606	2,013	2,295	2,473	2,642
11,5001,070	1,613	2,021	2,305	2,483	2,652
11,6001,075	1,619	2,029	2,314	2,493	2,663
11,7001,079	1,626	2,037	2,323	2,503	2,673
11,8001,084	1,633	2,046	2,333	2,513	2,684
11,9001,088	1,639	2,054	2,342	2,523	2,695
12,0001,093	1,646	2,062	2,351	2,533	2,705
12,1001,097	1,653	2,070	2,361	2,544	2,716
12,2001,102	1,659	2,078	2,370	2,554	2,726
12,3001,106	1,666	2,086	2,379	2,564	2,737
12,4001,110	1,672	2,094	2,388	2,574	2,748
12,5001,114	1,679	2,102	2,398	2,584	2,758

12,6001,119	1,685	2,110	2,407	2,594	2,769
12,7001,123	1,692	2,118	2,416	2,604	2,779
12,8001,128	1,699	2,127	2,426	2,614	2,790
12,9001,132	1,705	2,135	2,435	2,624	2,801
13,0001,137	1,712	2,143	2,444	2,634	2,811
13,1001,141	1,719	2,151	2,454	2,645	2,822
13,2001,146	1,725	2,159	2,463	2,665	2,832
13,3001,150	1,732	2,167	2,472	2,665	2,843
13,4001,154	1,738	2,175	2,481	2,675	2,854
13,5001,158	1,745	2,183	2,491	2,685	2,864
13,6001,163	1,751	2,191	2,500	2,695	2,875
13,7001,167	1,758	2,199	2,509	2,705	2,885
13,8001,172	1,765	2,208	2,519	2,715	2,896
13,9001,176	1,771	2,216	2,528	2,725	2,907
14,0001,181	1,778	2,224	2,537	2,735	2,917
14,1001,185	1,785	2,232	2,547	2,746	2,928
14,2001,190	1,791	2,240	2,556	2,756	2,938
14,3001,194	1,798	2,248	2,565	2,766	2,949
14,4001,198	1,804	2,256	2,574	2,776	2,960
14,5001,202	1,811	2,264	2,584	2,786	2,970
14,6001,207	1,817	2,272	2,593	2,796	2,981
14,7001,211	1,824	2,280	2,602	2,806	2,991
14,8001,216	1,831	2,289	2,612	2,816	3,002
14,9001,220	1,837	2,297	2,621	2,826	3,013
15,0001,225	1,844	2,305	2,630	2,836	3,023

The House Committee Substitute No. 1 to **SB 224** is as follows:

SB 224, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined ***monthly adjusted parental gross***~~[parental]~~ income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their ***combined monthly*** adjusted ***parental*** gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) ***If health care insurance coverage is reasonable and available at the time the request for coverage is made, the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care insurance coverage for the child, in addition to the support ordered under the child support guidelines.***

(b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.

(c) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(d)[~~(b)~~]If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their ***combined monthly*** adjusted ***parental*** gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) The court order shall include the Social Security numbers of all parties subject to a support order.

(10) In any case administered by the Cabinet for Families and Children, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Families and Children may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Families and Children shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

(13) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.

(14) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

Section 2. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, retirement and pension funds, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to public assistance as defined under Title IV-A of the Federal Social Security Act, and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight-line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include, but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(g) "Combined ***monthly*** adjusted parental gross income" means the combined ***monthly*** gross incomes of both parents, less any of the following payments made by the parent:

1.[~~The cost of health insurance coverage for the child;~~

~~2.~~] The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;

2.[~~3.~~] The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and

3.[~~4.~~] A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(h) "Split custody arrangement" means a situation where each parent is the residential custodian for one (1) or more children for whom the parents share a joint legal responsibility.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their ***combined monthly*** adjusted ***parental*** gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) ***The child support obligation in a split custody arrangement shall be calculated in the following manner:***

(a) Two (2) separate child support obligation worksheets shall be prepared, one (1) for each household, using the number of children born of the relationship in each separate household, rather than the total number of children born of the relationship.

(b) The nonresidential custodian with the greater monthly obligation amount shall pay the difference between the obligation amounts, as determined by the worksheets, to the other parent.

(7) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
$ 0$ 60	$ 60	$ 60	$ 60	$ 60	$ 60	
100 60	60	60	60	60	60	
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000195	303	325	330	335	340	
1,100212	324	384	389	394	399	
1,200229	346	433	446	451	456	
1,300246	367	460	504	510	515	
1,400262	392	491	554	576	582	
1,500277	417	522	588	642	650	
1,600293	437	548	618	674	717	
1,700308	458	574	647	706	755	
1,800322	478	599	675	736	788	
1,900336	495	620	699	763	816	
2,000350	512	642	723	789	844	
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2,300389	563	706	795	868	928	
2,400401	580	727	819	894	956	
2,500413	597	749	843	920	984	
2,600424	614	770	867	946	1,012	
2,700435	630	790	889	970	1,038	
2,800445	646	809	911	994	1,064	
2,900455	662	829	934	1,019	1,090	
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3,800548	808	1,011	1,139	1,243	1,329
3,900559	826	1,033	1,164	1,270	1,359
4,000571	844	1,056	1,190	1,298	1,388
4,100580	862	1,078	1,215	1,326	1,418
4,200592	880	1,101	1,240	1,353	1,448
4,300603	898	1,123	1,266	1,381	1,477
4,400615	916	1,146	1,291	1,409	1,507
4,500626	933	1,161	1,316	1,435	1,535
4,600636	949	1,181	1,338	1,459	1,561
4,700647	964	1,200	1,360	1,483	1,586
4,800657	980	1,220	1,381	1,507	1,612
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5,000676	1,010	1,257	1,424	1,554	1,661
5,100686	1,025	1,275	1,444	1,576	1,685
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5,400714	1,069	1,330	1,506	1,644	1,757
5,500724	1,083	1,348	1,527	1,666	1,781
5,600733	1,098	1,367	1,548	1,689	1,805
5,700743	1,113	1,385	1,568	1,712	1,829
5,800753	1,127	1,403	1,589	1,734	1,853
5,900762	1,142	1,421	1,610	1,757	1,877
6,000772	1,157	1,440	1,630	1,779	1,901
6,100781	1,171	1,458	1,651	1,802	1,926
6,200791	1,186	1,476	1,672	1,824	1,950
6,300800	1,198	1,498	1,690	1,844	1,970
6,400808	1,209	1,511	1,705	1,860	1,988
6,500816	1,219	1,524	1,720	1,876	2,005
6,600823	1,230	1,538	1,735	1,893	2,023
6,700830	1,240	1,551	1,750	1,909	2,040
6,800837	1,251	1,564	1,764	1,925	2,058
6,900844	1,261	1,577	1,779	1,942	2,075
7,000851	1,272	1,591	1,794	1,958	2,093
7,100858	1,282	1,604	1,809	1,975	2,110
7,200865	1,293	1,617	1,824	1,991	2,127
7,300872	1,303	1,630	1,839	2,007	2,145
7,400879	1,313	1,644	1,854	2,024	2,162
7,500885	1,324	1,657	1,869	2,040	2,179
7,600891	1,333	1,668	1,881	2,053	2,194
7,700896	1,342	1,679	1,893	2,066	2,208
7,800901	1,350	1,691	1,905	2,079	2,223
7,900907	1,359	1,702	1,917	2,093	2,238

8,000912	1,368	1,713	1,929	2,106	2,252
8,100917	1,377	1,724	1,941	2,119	2,267
8,200922	1,386	1,736	1,953	2,133	2,281
8,300928	1,395	1,747	1,965	2,146	2,296
8,400933	1,404	1,758	1,977	2,159	2,311
8,500938	1,413	1,769	1,989	2,173	2,325
8,600944	1,421	1,780	2,002	2,186	2,340
8,700949	1,430	1,792	2,014	2,199	2,354
8,800954	1,437	1,800	2,024	2,210	2,366
8,900958	1,444	1,809	2,033	2,220	2,376
9,000962	1,450	1,817	2,042	2,230	2,387
9,100966	1,457	1,825	2,052	2,241	2,398
9,200971	1,463	1,833	2,061	2,251	2,408
9,300975	1,470	1,842	2,070	2,261	2,419
9,400979	1,476	1,850	2,079	2,271	2,430
9,500983	1,483	1,858	2,089	2,281	2,440
9,600988	1,489	1,866	2,098	2,291	2,451
9,700992	1,496	1,874	2,107	2,301	2,461
9,800996	1,502	1,883	2,117	2,311	2,472
9,9001,000	1,508	1,891	2,126	2,321	2,483
10,0001,005	1,515	1,899	2,165	2,331	2,493
10,4001,022	1,541	1,932	2,202	2,372	2,536
10,5001,027	1,548	1,940	2,212	2,382	2,546
10,6001,032	1,554	1,948	2,221	2,392	2,557
10,7001,036	1,561	1,956	2,230	2,402	2,567
10,8001,040	1,567	1,965	2,240	2,412	2,578
10,9001,044	1,573	1,973	2,249	2,422	2,589
11,0001,049	1,580	1,981	2,258	2,432	2,599
11,1001,053	1,587	1,989	2,268	2,443	2,610
11,2001,058	1,593	1,997	2,277	2,453	2,620
11,3001,062	1,600	2,005	2,286	2,463	2,631
11,4001,066	1,606	2,013	2,295	2,473	2,642
11,5001,070	1,613	2,021	2,305	2,483	2,652
11,6001,075	1,619	2,029	2,314	2,493	2,663
11,7001,079	1,626	2,037	2,323	2,503	2,673
11,8001,084	1,633	2,046	2,333	2,513	2,684
11,9001,088	1,639	2,054	2,342	2,523	2,695
12,0001,093	1,646	2,062	2,351	2,533	2,705
12,1001,097	1,653	2,070	2,361	2,544	2,716
12,2001,102	1,659	2,078	2,370	2,554	2,726
12,3001,106	1,666	2,086	2,379	2,564	2,737
12,4001,110	1,672	2,094	2,388	2,574	2,748
12,5001,114	1,679	2,102	2,398	2,584	2,758
12,6001,119	1,685	2,110	2,407	2,594	2,769
12,7001,123	1,692	2,118	2,416	2,604	2,779
12,8001,128	1,699	2,127	2,426	2,614	2,790
12,9001,132	1,705	2,135	2,435	2,624	2,801
13,0001,137	1,712	2,143	2,444	2,634	2,811

13,1001,141	1,719	2,151	2,454	2,645	2,822
13,2001,146	1,725	2,159	2,463	2,665	2,832
13,3001,150	1,732	2,167	2,472	2,665	2,843
13,4001,154	1,738	2,175	2,481	2,675	2,854
13,5001,158	1,745	2,183	2,491	2,685	2,864
13,6001,163	1,751	2,191	2,500	2,695	2,875
13,7001,167	1,758	2,199	2,509	2,705	2,885
13,8001,172	1,765	2,208	2,519	2,715	2,896
13,9001,176	1,771	2,216	2,528	2,725	2,907
14,0001,181	1,778	2,224	2,537	2,735	2,917
14,1001,185	1,785	2,232	2,547	2,746	2,928
14,2001,190	1,791	2,240	2,556	2,756	2,938
14,3001,194	1,798	2,248	2,565	2,766	2,949
14,4001,198	1,804	2,256	2,574	2,776	2,960
14,5001,202	1,811	2,264	2,584	2,786	2,970
14,6001,207	1,817	2,272	2,593	2,796	2,981
14,7001,211	1,824	2,280	2,602	2,806	2,991
14,8001,216	1,831	2,289	2,612	2,816	3,002
14,9001,220	1,837	2,297	2,621	2,826	3,013
15,0001,225	1,844	2,305	2,630	2,836	3,023

SB 256, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) Any county, urban-county, or charter county may apply to the Department of Juvenile Justice to construct, operate, or contract for the operation of a youth alternative center.

(2) The youth alternative center shall be a nonsecure facility and shall be under the jurisdiction of that governing body, subject to the provisions of this chapter.

(3) The youth alternative center shall be used only for the detention of juveniles. The youth alternative center shall not be part of a county jail or other facility that houses adult offenders.

(4) The youth alternative center may be used as a place of detention for juveniles by order of a court prior to adjudication and after adjudication regardless of whether the child is a status offender, public offender, or youthful offender.

Section 2. KRS 15A.040 is amended to read as follows:

(1) The Criminal Justice Council shall advise and recommend to the Governor and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:

(a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;

(b) Conduct comprehensive planning to promote the maximum benefits of grants;

(c) Develop model criminal justice programs;

(d) Disseminate information on criminal justice issues and crime trends;

(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;

(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;

(g) Provide technical assistance to all criminal justice agencies;

(h) Review and evaluate proposed legislation affecting criminal justice; and

(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.

(2) Membership of the Criminal Justice Council shall consist of the following:

(a) The secretary of the Justice Cabinet or his designee;

(b) The director of the Administrative Office of the Courts or his designee;

(c) The Attorney General or his designee;

(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;

(e) Two (2) members of the Senate as designated by the President of the Senate;

(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;

(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;

(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;

(i) The public advocate or his designee;

(j) The president of the Kentucky Sheriffs' Association;

(k) The commissioner of state police or his designee;

(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;

(m) The president of the Kentucky Association of Chiefs of Police;

(n) A member of the Prosecutors Advisory Council as chosen by the council;

(o) The Chief Justice or a justice or judge designated by him;

(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;

(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;

(r) One (1) member of the Circuit Clerks' Association;

(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;

(t) One (1) District Judge, designated by the Chief Justice;

(u) One (1) Circuit Judge, designated by the Chief Justice;

(v) One (1) Court of Appeals Judge, designated by the Chief Justice;

(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;~~[and]~~

(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor***;***

(y) The commissioner of the Department of Juvenile Justice or his designee; and

(z) The commissioner of the Department of Corrections, or his designee.

(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

(4) The council shall meet at least once every three (3) months.

(5) The council may hold additional meetings:

(a) On the call of the chairman;

(b) At the request of the Governor to the chairman; or

(c) At the written request of the members to the chairman, signed by a majority of the members.

(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.

(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.

(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:

(a) Uniform Criminal Justice Information System committee;

(b) Committee on sentencing; and

(c) Penal Code committee.

(9) The council's administrative functions shall be performed by a full-time executive director appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 3. KRS 15A.067 is amended to read as follows:

(1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky for the care of juveniles alleged to be delinquent or adjudicated delinquent.

(2) There is established within the Department of Juvenile Justice, a Division of Educational Services, that shall be responsible for ***ensuring*** the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to ***youth***[~~adjudicated delinquents~~] who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period.

(3) Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.

(4) The Division of Educational Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:

(a) For students identified before incarceration as having an educational disability, the Division of Educational Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.

(b) For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.

(c) For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.

(5) The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.

(6) The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Educational Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

(7) (a) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.

(b) Within five (5) days after the juvenile is released, the Division of Educational Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.

(8) The Department of Juvenile Justice shall, after consultation with the Department of Education, promulgate an administrative regulation for the effective implementation of this section.

Section 4. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and KRS 15A.990:

(1) "Certified juvenile[~~ holding~~] facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(2) "Intermittent holding facility" means a physically secure setting***, approved by the Department of Juvenile Justice,*** which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners ***in which a child accused of a public offense may be detained for a period not to exceed twenty-four (24) hours, exclusive of weekends and holidays, prior to a detention hearing as provided in KRS 610.265, and*** in which children are supervised and observed on a regular basis ***by certified juvenile facility staff. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners***;

(3) "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas, and which is staffed exclusively by sufficient certified juvenile[~~ holding~~] facility staff to provide twenty-four (24) hours-per-day, supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;[~~ and~~]

(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of or attached to any facility in which adult

prisoners are confined or which shares staff with a facility in which adult prisoners are confined***; and***

(5) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the nonsecure detention of juveniles.

Section 5. KRS 600.010 is amended to read as follows:

(1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.

(2) KRS Chapters 600 to 645 shall be interpreted to effectuate the following express legislative purposes:

(a) The Commonwealth shall direct its efforts to promoting protection of children; to the strengthening and encouragement of family life for the protection and care of children; to strengthen and maintain the biological family unit; and to offer all available resources to any family in need of them;

(b) It also shall be declared to be the policy of this Commonwealth that all efforts shall be directed toward providing each child a safe and nurturing home;

(c) The court shall show that other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary;

(d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated to bring about an improvement of his condition;~~[and]~~

(e) ***KRS Chapter 635 shall be interpreted to promote the best interests of the child through providing treatment and sanctions to reduce recidivism and assist in making the child a productive citizen by advancing the principles of personal responsibility, accountability, and reformation, while maintaining public safety, and seeking restitution and reparation;***

(f) KRS Chapter 640 shall be interpreted to promote public safety and the concept that every child be held accountable for his or her conduct through the use of restitution, reparation, and sanctions, in an effort to rehabilitate delinquent youth;

(g) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents ***and victims***, are recognized and all parties are assured prompt and fair hearings. Unless otherwise provided, such protections belong to the child individually and may not be waived by any other party***; and***

(h) That parents shall be held accountable for their children's behavior, to the extent that an act of delinquency can be attributed to their act or omissions.

Section 6. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child; or

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Families and Children;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(23) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(24) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(25) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions

during a one (1) year period;

(26) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(27) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(28) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(29) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(30) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(31) "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(32) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(33) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(34) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(35) "Needs of the child" means necessary food, clothing, health, shelter, and education.

(36) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(37) "Parent" means the biological or adoptive mother or father of a child;

(38) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(39) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(40) "Physical injury" means substantial physical pain or any impairment of physical condition;

(41) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(42) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(43) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(44) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(45) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(46) "Secretary" means the secretary of the Cabinet for Families and Children;

(47) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(48) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(49) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(50) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(51) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(52) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(53) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(54) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(55) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in ***Section 1 of this Act***[~~KRS 610.267 and the administrative regulations promulgated thereunder~~]; and

(56) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 7. KRS 605.080 is amended to read as follows:

(1) Any child ordered to be transported, by a committing ***or sentencing*** court, shall be transported by the sheriff or the jailer of that county. Any other law enforcement agency may enter into agreements with the court, sheriff, or jailer to transport juveniles.

(2) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be allowed an amount prescribed by regulation adopted by the Finance and Administration Cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging, and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the District Court and certified by the circuit clerk to the Department of Juvenile Justice or the cabinet, as appropriate, for payment out of funds appropriated to the Department of Juvenile Justice or the cabinet for this purpose. The child's presence shall be necessary at a postdispositional proceeding only as required by court order for good cause. Transportation shall be provided as in subsection (1) of this section and expenses for transportation of a child to a proceeding from a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be paid out of the State Treasury.

(3) No child shall be transported to any residential treatment facility or other facility, pursuant to order of any court or direction of the cabinet, unless accompanied by an attendant of the same gender, or, when authorized in writing by the court, the Department of Juvenile Justice, or the cabinet, by a parent, grandparent, or adult brother or sister.

(4) The agent of any residential treatment facility or other facility which receives a child transported to the facility shall report any violation of subsection (2) of this section to the Commonwealth's attorney of the judicial circuit in which the facility is located.

(5) The Department of Juvenile Justice or the cabinet may pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 8. KRS 610.170 is amended to read as follows:

If it appears from the investigation required in KRS 610.100 or otherwise that the parent or other person exercising custodial control or supervision of any child, or the estate of any child, who has been found to fall within the purview of KRS Chapters 600 to 645 and who has been left in his own home or in the home of a relative, placed on probation or placed in a foster home or boarding home, or in the care of a public or private facility or agency, or the Department of Juvenile Justice or the cabinet, is able to contribute to the support of the child, the court shall enter an order requiring the parent or estate to pay a reasonable sum for the support, maintenance, or education of the child. The order shall direct that the money be paid to the circuit clerk to be disbursed as ordered by the court or be paid to the person, facility, agency, or the Department of Juvenile Justice or cabinet to which the child was committed or probated. On application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may issue such orders necessary to compel payment of the sum due. The enforcement of a sentence imposed on a parent who fails to comply with the order of the court may be suspended at the discretion of the court, but the suspension may be revoked at the discretion of the court upon the failure of the parent to obey further orders of the court. This section shall not apply when the parent or other person exercising custodial control or supervision of the child was the victim of the child's criminal conduct ***under KRS Chapters 635 or 640,*** or filed the complaint against the child ***under other provisions of the Unified Juvenile Code***.

Section 9. KRS 610.220 is amended to read as follows:

(1) ***Except as otherwise provided by statute,*** if an officer takes or receives a child into custody, the child may be held at a police station, secure juvenile detention facility, juvenile holding facility, intermittent holding facility, ***youth alternative center,*** the offices of the court-designated worker, or, as necessary, in a hospital or clinic for the following purposes:

   (a) Identification and booking;
   (b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;
   (c) Photographing;
   (d) Fingerprinting;
   (e) Physical examinations, including examinations for evidence;
   (f) Evidence collection, including scientific tests;
   (g) Records checks;
   (h) Determining whether the child is subject to trial as an adult; and
   (i) Other inquiries of a preliminary nature.

(2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody in facilities listed in subsection (1) of this section for the period of retention.

Section 10. KRS 610.310 is amended to read as follows:

(1) When the ***mental or physical*** health~~[or physical condition]~~ of any child before the juvenile court requires it, the court may order the child to be placed in a public or private hospital or institution for ***examination, evaluation,*** treatment, or care~~[. In order to ascertain the physical condition of a child, the court may cause the child to be examined]~~ by a health officer, ***comprehensive care center,***~~[or]~~ children's clinic, or any reputable physician ***or psychologist*** who will conduct the examination. ***The cabinet and the Department of Juvenile Justice may furnish services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county or charter county government may enter into a contract on behalf of his or her county with the cabinet or the Department of Juvenile Justice for the furnishings of these services.***

(2) The court may order or consent to necessary medical treatment, including surgical procedures, except for the purpose of abortion, electroshock therapy or psychosurgery as provided in KRS Chapter 645, or sterilization, after a hearing conducted to determine the necessity of such treatment or procedure. In making the order, the court may take into consideration the religious beliefs and practices of the child and his parents or guardian. Reasonable notice, taking into account any emergency circumstances, shall be provided to the parents, guardian or person exercising custodial control or supervision of the child to enable them to attend the hearing.

Section 11. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) Any other provision of KRS Chapters ***610***~~[600]~~ to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm***, whether functional or not,*** was used in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a secure detention facility for juveniles or for youthful offenders, unless the provisions of KRS 635.025 apply or unless he is released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence.

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

Section 12. KRS 635.025 is amended to read as follows:

(1) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youth, transferred under KRS 635.020(4), committed to an adult facility operated by the Department of Corrections if it is established by a preponderance of the evidence that the juvenile:
   (a) By his or her violent behavior, injured or endangered the life or health of another youthful offender or staff members in the facility or program;
   (b) Escaped from the facility or program from which the juvenile is being held~~[on more than one (1) occasion]~~;
   (c) By his or her actions, caused disruption in the facility or program by encouraging other residents to engage in violent behavior which has injured or endangered the life or health of other residents or staff of the facility or program;
   (d) By his or her actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or
   (e) By his or her actions has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

(2) The hearing described in subsection (1) of this section shall be held in the sentencing Circuit Court within ten (10) days of the filing of the motion provided for in subsection (1) of this section.

(3) Upon a youth's admission to a facility or program operated by the Department of Juvenile Justice, the department shall

advise that youth of the provisions of this section.

(4) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youth committed to the Department of Corrections, if the Department of Juvenile Justice establishes by a preponderance of the evidence that the youth is mentally ill, dangerous to himself or others, and cannot be adequately treated in the program. The court shall presume that a youth is mentally ill if the youth has pled guilty to, or has been convicted of, a felony and has been found by the court or jury to be guilty but mentally ill.

(5) Any youth remanded to the Department of Corrections under any provision of this chapter shall not later be placed in a facility operated by the Department of Juvenile Justice.

Section 13. KRS 635.055 is amended to read as follows:

No child who is found to be in contempt of court shall be committed as a public offender as a result of such finding, nor detained because of such finding in a facility other than a secure juvenile detention facility,~~[or]~~ juvenile holding facility***, youth alternative center, or an alternative to detention program approved by the Department of Juvenile Justice***.

Section 14. KRS 635.070 is amended to read as follows:

The~~[governing authorities of the]~~ Department of Juvenile Justice~~[, agency, or facility]~~ may discharge the child~~[unless the court directs otherwise. Prior to discharge, two (2) weeks']~~ ***from commitment after providing fourteen (14) days prior*** written notice~~[shall be given]~~ to the committing court, to the legal representative of the child, and to the county attorney of the county in which the committing court presides***, which may object to the discharge by holding a court review under KRS 610.120***. During the period of commitment or placement, the court may review a dispositional order and may continue or terminate such order as the court deems essential to the best interests of the child.~~[In committing a child to a child-caring facility or a child-placing agency, the court shall select one (1) that is approved by the Department of Juvenile Justice, and children committed to such a facility or agency shall be subject to the visitation and supervision of a probation officer of the Department of Juvenile Justice.]~~

Section 15. KRS 635.100 is amended to read as follows:

(1) Any child committed to the Department of Juvenile Justice who is placed in a treatment facility or program and who escapes or is absent without leave shall be taken into custody and returned to the custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(2) Any child committed to the Department of Juvenile Justice who is placed on supervised placement by the Department of Juvenile Justice and who violates the terms or conditions of supervised placement may be~~[taken into custody and]~~ returned to active custody of the Department of Juvenile Justice ***and may be taken into custody*** by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(3) ***A***~~[The]~~ child~~[may be]~~ taken into custody ***may be***~~[and]~~ held in a Department of Juvenile Justice facility, program, or contract facility, prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the Department of Juvenile Justice within five (5) days***, exclusive of weekends and holidays,*** of the holding***, unless the child or his representative request or agree to a longer period of time,*** to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (4) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.

(4) If the child is returned to the active custody of the Department of Juvenile Justice ***as provided in subsection (3) of this section***~~[pending a hearing, before readmitting the child to a treatment program pursuant to this section, except as provided in subsection (3) of this section,]~~ an administrative hearing shall be held within ten ***(10)***~~[working]~~ days***, exclusive of weekends and holidays,*** of the preliminary hearing unless the child and his representative request or agree to a longer period of time. The hearing shall be held by one (1) hearing officer designated by the Department of Juvenile Justice to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

(5) The Department shall have the power to administer oaths and to issue subpoenas compelling the attendance of witnesses as it may deem necessary to the case of any child before it. Disobedience of a subpoena may be punished as contempt of court, after a hearing before the committing juvenile court.

(6) Administrative hearings conducted under this section and administrative regulations promulgated under this section shall be exempt from the requirements of KRS Chapter 13B.

(7)~~[(6)]~~The Department of Juvenile Justice ***shall***~~[may]~~ promulgate administrative regulations to ***govern at least the following aspects of this section:***

(a) Commissioner's warrant;

(b) Procedural aspects of the hearing;

(c) Burden of proof;

(d) Standard of proof; and

(e) Administrative appeal process

~~[implement the provisions of this chapter]~~.

Section 16. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (5), (6), (7), *or* (8),~~[or (9),]~~ the court shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020(2), (3), *(5),* (6), (7), *or* (8),~~[or (9),]~~ the District Court shall, upon motion by the county attorney to proceed under this chapter, and after the county attorney has consulted with the Commonwealth's attorney, conduct a preliminary hearing to determine if the child should be transferred to Circuit Court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the preliminary hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the District Court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the Circuit Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;
6. The prospects of adequate protection of the public;
7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system; and
8. Evidence of a child's participation in a gang.

(c) If, following the completion of the preliminary hearing, the District Court finds, after considering the factors enumerated in paragraph (b) of this subsection, that two (2) or more of the factors specified in paragraph (b) of this subsection are determined to favor transfer, the child may be transferred to Circuit Court, and if the child is transferred the District Court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the Circuit Court as an adult, except as otherwise provided in this chapter.

(d) If, following completion of the preliminary hearing, the District Court is of the opinion, after considering the factors enumerated in paragraph (b) of this subsection, that the child shall not be transferred to the Circuit Court, the case shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to Circuit Court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), (5), (6), (7), and (8), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in Circuit Court but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.

Section 17. KRS 640.050 is amended to read as follows:

(1) Any period of probation or conditional discharge required by the sentencing court to be served shall be supervised~~[, as the court may determine by written order,]~~ by:

(a) The Department of Juvenile Justice*, if the youthful offender is under the age of eighteen (18)*;

(b) The Department of Corrections*, upon the youthful offender attaining the age of eighteen (18)*; or

(c) The designated representative of either of the above.

(2) The Department of Juvenile Justice may make recommendations to the Circuit Court concerning the disposition of the youthful offender.

~~[(3) The court may order any of the above alternatives without regard to the age of the youthful offender.]~~

Section 18. KRS 640.070 is amended to read as follows:

(1) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youthful offender committed to an adult facility operated by the Department of Corrections if it is established by a preponderance of the evidence that the youthful offender has:

(a) By his violent behavior, injured or endangered the life or health of another youthful offender or staff members in the facility or program;

(b) Escaped from the facility or program from which he is being held~~[on more than one (1) occasion]~~;

(c) By his actions, caused disruption in the facility or program by encouraging other residents to engage in violent behavior which has injured or endangered the life or health of other residents or staff of the facility or program;

(d) By his actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or

(e) By his actions has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

(2) The hearing shall be held in the sentencing Circuit Court within ten (10) days of the filing of the motion provided for in subsection (1) of this section.

(3) Upon admission to a facility or program operated by the Department of Juvenile Justice, the department shall advise the youthful offender of the provisions of this section.

(4) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youthful offender committed to the Department of Corrections if it is established by a preponderance of the evidence that the youthful offender is mentally ill and is dangerous to himself or others, and cannot be adequately treated in the youthful offender program. It shall be presumed that a youthful offender is mentally ill if he has pled guilty to or has been convicted of a felony and has been found by the court or jury to be guilty but mentally ill.

(5) Any youth remanded to the Department of Corrections under any provision of this chapter shall not later be placed in a facility operated by the Department of Juvenile Justice.

Section 19. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be ***reviewed***~~[approved]~~ by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Families and Children and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Families and Children, Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.

(b) Teachers and other staff shall be hired on contract through a local school district or if ***a***~~[the]~~ local school district is not willing to participate, teachers ***may***~~[shall]~~ be hired by the Kentucky Educational ***Collaborative***~~[Cooperative]~~ for State Agency Children ***or a contract may be entered into with a private provider of educational services***. All certified educational staff ***hired by***~~[of]~~ the Kentucky Educational ***Collaborative***~~[Cooperative]~~ for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;

3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135;~~[and]~~

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children***; and***

7. Any other statute to the contrary notwithstanding, for purposes described in KRS 157.360, the average daily attendance at Department of Juvenile Justice facilities shall be established as each facility's rated capacity.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children shall promulgate administrative regulations, pursuant to KRS Chapter 13A, ***after consultation*** with ***and*** the assistance of the Kentucky Department of Education and~~[upon recommendation of]~~ the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:

a. Define the financial responsibility of each state and local agency for providing services to state agency children;

b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Families and Children.

(e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.

(f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 20. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted***, except that average daily attendance in Department of Juvenile Justice operated facilities shall be calculated at the rated capacity of each facility***.

(a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and

(b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175) days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;

(11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;

(16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board; and

(17) "Weather-related low attendance day" means a school day on which the district's attendance falls below the percentage of average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the Kentucky Board of Education in accordance with its administrative regulations.

Section 21. The following KRS section is repealed:

610.267 Youth alternative centers.

The House Committee Substitute No. 1 to **SB 256** is as follows:

SB 256, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) Any county, urban-county, or charter county may apply to the Department of Juvenile Justice to construct, operate, or contract for the operation of a youth alternative center.

(2) The youth alternative center shall be a nonsecure facility and shall be under the jurisdiction of that governing body, subject to the provisions of this chapter.

(3) The youth alternative center shall be used only for the detention of juveniles. The youth alternative center shall not be part of a county jail or other facility that houses adult offenders.

(4) The youth alternative center may be used as a place of detention for juveniles by order of a court prior to adjudication and after adjudication regardless of whether the child is a status offender, public offender, or youthful offender.

Section 2. KRS 15A.040 is amended to read as follows:

(1) The Criminal Justice Council shall advise and recommend to the Governor and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:

(a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;

(b) Conduct comprehensive planning to promote the maximum benefits of grants;

(c) Develop model criminal justice programs;

(d) Disseminate information on criminal justice issues and crime trends;

(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;

(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;

(g) Provide technical assistance to all criminal justice agencies;

(h) Review and evaluate proposed legislation affecting criminal justice; and

(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.

(2) Membership of the Criminal Justice Council shall consist of the following:

(a) The secretary of the Justice Cabinet or his designee;

(b) The director of the Administrative Office of the Courts or his designee;

(c) The Attorney General or his designee;

(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;

(e) Two (2) members of the Senate as designated by the President of the Senate;

(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;

(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;

(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;

(i) The public advocate or his designee;

(j) The president of the Kentucky Sheriffs' Association;

(k) The commissioner of state police or his designee;

(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;

(m) The president of the Kentucky Association of Chiefs of Police;

(n) A member of the Prosecutors Advisory Council as chosen by the council;

(o) The Chief Justice or a justice or judge designated by him;

(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;

(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;

(r) One (1) member of the Circuit Clerks' Association;

(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;

(t) One (1) District Judge, designated by the Chief Justice;

(u) One (1) Circuit Judge, designated by the Chief Justice;

(v) One (1) Court of Appeals Judge, designated by the Chief Justice;

(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;~~[and]~~

(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor***;***

(y) The commissioner of the Department of Juvenile Justice or his designee;

(z) The commissioner of the Department of Corrections, or his designee; and

(aa) The commissioner of the Department of Criminal Justice Training or his designee.

(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

(4) The council shall meet at least once every three (3) months.

(5) The council may hold additional meetings:

(a) On the call of the chairman;

(b) At the request of the Governor to the chairman; or

(c) At the written request of the members to the chairman, signed by a majority of the members.

(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.

(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.

(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:

(a) Uniform Criminal Justice Information System committee;

(b) Committee on sentencing; and

(c) Penal Code committee.

(9) The council's administrative functions shall be performed by a full-time executive director appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 3. KRS 15A.067 is amended to read as follows:

(1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky for the care of juveniles alleged to be delinquent or adjudicated delinquent.

(2) There is established within the Department of Juvenile Justice, a Division of Educational Services, that shall be responsible for ***ensuring*** the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to ***youth***~~[adjudicated delinquents]~~ who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period.

(3) Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.

(4) The Division of Educational Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:

(a) For students identified before incarceration as having an educational disability, the Division of Educational Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.

(b) For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.

(c) For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.

(5) The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.

(6) The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Educational Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

(7) (a) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.

(b) Within five (5) days after the juvenile is released, the Division of Educational Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.

(8) The Department of Juvenile Justice shall, after consultation with the Department of Education, promulgate an administrative regulation for the effective implementation of this section.

Section 4. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and KRS 15A.990:

(1) "Certified juvenile[~~ holding~~] facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(2) "Intermittent holding facility" means a physically secure setting***, approved by the Department of Juvenile Justice,*** which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners ***in which a child accused of a public offense may be detained for a period not to exceed seventy-two (72) hours, exclusive of weekends and holidays, prior to a detention hearing as provided in KRS 610.265, and*** in which children are supervised and observed on a regular basis ***by certified juvenile facility staff. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners***;

(3) "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas, and which is staffed exclusively by sufficient certified juvenile[~~ holding~~] facility staff to provide twenty-four (24) hours-per-day, supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;[~~ and~~]

(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined***; and***

(5) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the nonsecure detention of juveniles.

Section 5. KRS 600.010 is amended to read as follows:

(1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.

(2) KRS Chapters 600 to 645 shall be interpreted to effectuate the following express legislative purposes:

(a) The Commonwealth shall direct its efforts to promoting protection of children; to the strengthening and encouragement of family life for the protection and care of children; to strengthen and maintain the biological family unit; and to offer all available resources to any family in need of them;

(b) It also shall be declared to be the policy of this Commonwealth that all efforts shall be directed toward providing each child a safe and nurturing home;

(c) The court shall show that other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary;

(d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated to bring about an improvement of his condition;[~~ and~~]

(e) ***KRS Chapter 635 shall be interpreted to promote the best interests of the child through providing treatment and sanctions to reduce recidivism and assist in making the child a productive citizen by advancing the principles of personal responsibility, accountability, and reformation, while maintaining public safety, and seeking restitution and reparation;***

(f) KRS Chapter 640 shall be interpreted to promote public safety and the concept that every child be held accountable for his or her conduct through the use of restitution, reparation, and sanctions, in an effort to

rehabilitate delinquent youth; and

(g) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents ***and victims***, are recognized and all parties are assured prompt and fair hearings. Unless otherwise provided, such protections belong to the child individually and may not be waived by any other party.

Section 6. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits the child; or

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Families and Children;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Families and Children, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the commitment is discharged under KRS Chapter 605 or the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, a secure juvenile detention facility, or an alternative form of detention;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment as testified to by a qualified mental health professional;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(23) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(24) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(25) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(26) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(27) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(28) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(29) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(30) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(31) "Juvenile holding facility" means a physically secure setting, approved by the Department of Juvenile Justice, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Department of Juvenile Justice may supervise juvenile as well as adult prisoners;

(32) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(33) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS

177.300, 304.39-110, or 304.39-117;

(34) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

(35) "Needs of the child" means necessary food, clothing, health, shelter, and education.

(36) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(37) "Parent" means the biological or adoptive mother or father of a child;

(38) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(39) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(40) "Physical injury" means substantial physical pain or any impairment of physical condition;

(41) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(42) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(43) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(44) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(45) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(46) "Secretary" means the secretary of the Cabinet for Families and Children;

(47) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(48) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(49) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(50) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(51) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage

in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(52) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(53) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(54) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(55) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in ***Section 1 of this Act***[~~KRS 610.267 and the administrative regulations promulgated thereunder~~]; and

(56) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 7. KRS 605.080 is amended to read as follows:

(1) Any child ordered to be transported, by a committing ***or sentencing*** court, shall be transported by the sheriff or the jailer of that county. Any other law enforcement agency may enter into agreements with the court, sheriff, or jailer to transport juveniles.

(2) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be allowed an amount prescribed by regulation adopted by the Finance and Administration Cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging, and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the District Court and certified by the circuit clerk to the Department of Juvenile Justice or the cabinet, as appropriate, for payment out of funds appropriated to the Department of Juvenile Justice or the cabinet for this purpose. The child's presence shall be necessary at a postdispositional proceeding only as required by court order for good cause. Transportation shall be provided as in subsection (1) of this section and expenses for transportation of a child to a proceeding from a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be paid out of the State Treasury.

(3) No child shall be transported to any residential treatment facility or other facility, pursuant to order of any court or direction of the cabinet, unless accompanied by an attendant of the same gender, or, when authorized in writing by the court, the Department of Juvenile Justice, or the cabinet, by a parent, grandparent, or adult brother or sister.

(4) The agent of any residential treatment facility or other facility which receives a child transported to the facility shall report any violation of subsection (2) of this section to the Commonwealth's attorney of the judicial circuit in which the facility is located.

(5) The Department of Juvenile Justice or the cabinet may pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 8. KRS 610.170 is amended to read as follows:

If it appears from the investigation required in KRS 610.100 or otherwise that the parent or other person exercising custodial control or supervision of any child, or the estate of any child, who has been found to fall within the purview of KRS Chapters 600 to 645 and who has been left in his own home or in the home of a relative, placed on probation or placed in a foster home or boarding home, or in the care of a public or private facility or agency, or the Department of Juvenile Justice or the cabinet, is able to contribute to the support of the child, the court shall enter an order requiring the parent or estate to pay a reasonable sum for the support, maintenance, or education of the child. The order shall direct that the money be paid to the circuit clerk to be disbursed as ordered by the court or be paid to the person, facility, agency, or the Department of Juvenile Justice or cabinet to which the child was committed or probated. On application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may issue such orders necessary to compel payment of the sum due. The enforcement of a sentence imposed on a parent who fails to comply with the order of the court may be suspended at the discretion of the court, but the suspension may be revoked at the discretion of the court upon the failure of the parent to obey further orders of the court. This section shall not apply when the parent or other person exercising custodial control or supervision of the child was the victim of the child's criminal conduct ***under KRS Chapters 635 or 640,*** or filed the complaint against the child ***under other provisions of the Unified Juvenile Code***.

Section 9. KRS 610.220 is amended to read as follows:

(1) ***Except as otherwise provided by statute,*** if an officer takes or receives a child into custody, the child may be held at a police station, secure juvenile detention facility, juvenile holding facility, intermittent holding facility, ***youth alternative center,*** the offices of the court-designated worker, or, as necessary, in a hospital or clinic for the following purposes:

(a) Identification and booking;

(b) Attempting to notify the parents or person exercising custodial control or supervision of the child, a relative, guardian, or other responsible person;

(c) Photographing;

(d) Fingerprinting;

(e) Physical examinations, including examinations for evidence;

(f) Evidence collection, including scientific tests;

(g) Records checks;

(h) Determining whether the child is subject to trial as an adult; and

(i) Other inquiries of a preliminary nature.

(2) A child may be held in custody pursuant to this section for a period of time not to exceed two (2) hours, unless an extension of time is granted. Permission for an extension of time may be granted by the court, trial commissioner, or court-designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody in facilities listed in subsection (1) of this section for the period of retention.

Section 10. KRS 610.310 is amended to read as follows:

(1) When the ***mental or physical*** health[~~ or physical condition~~] of any child before the juvenile court requires it, the court may order the child to be placed in a public or private hospital or institution for ***examination, evaluation,*** treatment***,*** or care[~~. In order to ascertain the physical condition of a child, the court may cause the child to be examined~~] by a health officer***,*** ***comprehensive care center,***[~~ or~~] children's clinic***,*** or any reputable physician ***or psychologist*** who will conduct the examination. ***The cabinet and the Department of Juvenile Justice may furnish services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county or charter county government may enter into a contract on behalf of his or her county with the cabinet or the Department of Juvenile Justice for the furnishings of these services.***

(2) The court may order or consent to necessary medical treatment, including surgical procedures, except for the purpose of abortion, electroshock therapy or psychosurgery as provided in KRS Chapter 645, or sterilization, after a hearing conducted to determine the necessity of such treatment or procedure. In making the order, the court may take into consideration the religious beliefs and practices of the child and his parents or guardian. Reasonable notice, taking into account any emergency circumstances, shall be provided to the parents, guardian or person exercising custodial control or supervision of the child to enable them to attend the hearing.

Section 11. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) Any other provision of KRS Chapters ***610***[~~600~~] to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm***, whether functional or not,*** was used in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court, he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a secure detention facility for juveniles or for youthful offenders, unless the provisions of KRS 635.025 apply or unless he is released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence.

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

Section 12. KRS 635.025 is amended to read as follows:

(1) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youth, transferred under KRS 635.020(4), committed to an adult facility operated by the Department of Corrections if it is established by a preponderance of the evidence that the juvenile:

  (a) By his or her violent behavior, injured or endangered the life or health of another youthful offender or staff members in the facility or program;

  (b) Escaped from the facility or program from which the juvenile is being held[~~ on more than one (1) occasion~~];

  (c) By his or her actions, caused disruption in the facility or program by encouraging other residents to engage in violent behavior which has injured or endangered the life or health of other residents or staff of the facility or program;

  (d) By his or her actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or

  (e) By his or her actions has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

(2) The hearing described in subsection (1) of this section shall be held in the sentencing Circuit Court within ten (10) days of the filing of the motion provided for in subsection (1) of this section.

(3) Upon a youth's admission to a facility or program operated by the Department of Juvenile Justice, the department shall advise that youth of the provisions of this section.

(4) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youth committed to the Department of Corrections, if the Department of Juvenile Justice establishes by a preponderance of the evidence that the youth is mentally ill, dangerous to himself or others, and cannot be adequately treated in the program. The court shall presume that a youth is mentally ill if the youth has pled guilty to, or has been convicted of, a felony and has been found by the court or jury to be guilty but mentally ill.

(5) Any youth remanded to the Department of Corrections under any provision of this chapter shall not later be placed in a facility operated by the Department of Juvenile Justice.

Section 13. KRS 635.055 is amended to read as follows:

No child who is found to be in contempt of court shall be committed as a public offender as a result of such finding, nor detained because of such finding in a facility other than a secure juvenile detention facility***,***[~~ or~~] juvenile holding facility***, youth alternative center, or an alternative to detention program approved by the Department of Juvenile Justice***.

Section 14. KRS 635.070 is amended to read as follows:

The[~~ governing authorities of the~~] Department of Juvenile Justice[~~, agency, or facility~~] may discharge the child[~~ unless the court directs otherwise. Prior to discharge, two (2) weeks'~~] ***from commitment after providing fourteen (14) days prior*** written notice[~~ shall be given~~] to the committing court, to the legal representative of the child, and to the county attorney of the county in which the committing court presides***, which may object to the discharge by holding a court review under KRS 610.120***. During the period of commitment or placement, the court may review a dispositional order and may continue or terminate such order as the court deems essential to the best interests of the child.[~~ In committing a child to a child-caring facility or a child-placing agency, the court shall select one (1) that is approved by the Department of Juvenile Justice, and children committed to such a facility or agency shall be subject to the visitation and supervision of a probation officer of the Department of Juvenile Justice.~~]

Section 15. KRS 635.100 is amended to read as follows:

(1) Any child committed to the Department of Juvenile Justice who is placed in a treatment facility or program and who escapes or is absent without leave shall be taken into custody and returned to the custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(2) Any child committed to the Department of Juvenile Justice who is placed on supervised placement by the Department of Juvenile Justice and who violates the terms or conditions of supervised placement may be[~~ taken into custody and~~] returned to active custody of the Department of Juvenile Justice ***and may be taken into custody*** by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(3) ***A***[~~The~~] child[~~ may be~~] taken into custody ***may be***[~~and~~] held in a Department of Juvenile Justice facility, program, or contract facility, prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the Department of Juvenile Justice within five (5) days***, exclusive of weekends and holidays,*** of the holding***, unless the child or his representative request or agree to a longer period of time,*** to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (4) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.

(4) If the child is returned to the active custody of the Department of Juvenile Justice ***as provided in subsection (3) of this section***[~~pending a hearing, before readmitting the child to a treatment program pursuant to this section, except as provided in subsection (3) of this section,~~] an administrative hearing shall be held within ten ***(10)***[~~ working~~] days***, exclusive of weekends and holidays,*** of the preliminary hearing unless the child and his representative request or agree to a longer period of time. The hearing shall be held by one (1) hearing officer designated by the Department of Juvenile Justice to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

(5) ***The Department shall have the power to administer oaths and to issue subpoenas compelling the attendance of witnesses as it may deem necessary to the case of any child before it. Disobedience of a subpoena may be punished as contempt of court, after a hearing before the committing juvenile court.***

(6) Administrative hearings conducted under this section and administrative regulations promulgated under this section shall be exempt from the requirements of KRS Chapter 13B.

(7)[~~(6)~~]The Department of Juvenile Justice ***shall***[~~may~~] promulgate administrative regulations to ***govern at least the following aspects of this section:***

(a) Commissioner's warrant;

(b) Procedural aspects of the hearing;

(c) Burden of proof;

(d) Standard of proof; and

(e) Administrative appeal process

[~~implement the provisions of this chapter~~].

Section 16. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (5), (6), (7), ***or*** (8),[~~ or (9),~~] the court shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020(2), (3), ***(5),*** (6), (7), ***or*** (8),[~~ or (9),~~] the District Court shall, upon motion by the county attorney to proceed under this chapter, and after the county attorney has consulted with the Commonwealth's attorney, conduct a preliminary hearing to determine if the child should be transferred to Circuit Court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the preliminary hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the District Court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the Circuit Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;

6. The prospects of adequate protection of the public;

7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system; and

8. Evidence of a child's participation in a gang.

(c) If, following the completion of the preliminary hearing, the District Court finds, after considering the factors enumerated in paragraph (b) of this subsection, that two (2) or more of the factors specified in paragraph (b) of this subsection are determined to favor transfer, the child may be transferred to Circuit Court, and if the child is transferred the District Court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the Circuit Court as an adult, except as otherwise provided in this chapter.

(d) If, following completion of the preliminary hearing, the District Court is of the opinion, after considering the factors enumerated in paragraph (b) of this subsection, that the child shall not be transferred to the Circuit Court, the case shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to Circuit Court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), (5), (6), (7), and (8), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in Circuit Court but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.

Section 17. KRS 640.050 is amended to read as follows:

(1) Any period of probation or conditional discharge required by the sentencing court to be served shall be supervised~~[, as the court may determine by written order,]~~ by:

(a) The Department of Juvenile Justice***, if the youthful offender is under the age of eighteen (18)***;

(b) The Department of Corrections***, upon the youthful offender attaining the age of eighteen (18)***; or

(c) The designated representative of either of the above.

(2) The Department of Juvenile Justice may make recommendations to the Circuit Court concerning the disposition of the youthful offender.

~~[(3) The court may order any of the above alternatives without regard to the age of the youthful offender.]~~

Section 18. KRS 640.070 is amended to read as follows:

(1) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youthful offender committed to an adult facility operated by the Department of Corrections if it is established by a preponderance of the evidence that the youthful offender has:

(a) By his violent behavior, injured or endangered the life or health of another youthful offender or staff members in the facility or program;

(b) Escaped from the facility or program from which he is being held~~[on more than one (1) occasion]~~;

(c) By his actions, caused disruption in the facility or program by encouraging other residents to engage in violent behavior which has injured or endangered the life or health of other residents or staff of the facility or program;

(d) By his actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or

(e) By his actions has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

(2) The hearing shall be held in the sentencing Circuit Court within ten (10) days of the filing of the motion provided for in subsection (1) of this section.

(3) Upon admission to a facility or program operated by the Department of Juvenile Justice, the department shall advise the youthful offender of the provisions of this section.

(4) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youthful offender committed to the Department of Corrections if it is established by a preponderance of the evidence that the youthful offender is mentally ill and is dangerous to himself or others, and cannot be adequately treated in the youthful offender program. It shall be presumed that a youthful offender is mentally ill if he has pled guilty to or has been convicted of a felony and has been found by the court or jury to be guilty but mentally ill.

(5) Any youth remanded to the Department of Corrections under any provision of this chapter shall not later be placed in a facility operated by the Department of Juvenile Justice.

Section 19. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange

for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available, at a cost not to exceed the Medicaid reimbursement rate, to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children, residential, day treatment, clinical, and group home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Families and Children and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Families and Children, Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.

(b) Teachers and other staff shall be hired on contract through a local school district or if ***a***~~[the]~~ local school district is not willing to participate, teachers ***may***~~[shall]~~ be hired by the Kentucky Educational ***Collaborative***~~[Cooperative]~~ for State Agency Children ***or a contract may be entered into with a private provider of educational services***. All certified educational staff ***hired by***~~[of]~~ the Kentucky Educational ***Collaborative***~~[Cooperative]~~ for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per-pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children;

3. A per-pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children shall promulgate administrative regulations, pursuant to KRS Chapter 13A, ***after consultation*** with ***and*** the assistance of the Kentucky Department of Education and~~[upon recommendation of]~~ the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:

a. Define the financial responsibility of each state and local agency for providing services to state agency children;

b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision

making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Families and Children.

(e) When the placement of a state agency child is changed so that the state agency child must transfer from one school or educational facility to a different school or educational facility, the school or educational facility that the state agency child is leaving shall, within two (2) days of the state agency child leaving, prepare an educational passport for the child, which shall be delivered to the cabinet or the Department of Juvenile Justice. The cabinet or the Department of Juvenile Justice shall, within two (2) days of enrolling a state agency child in a new school or educational facility, present the educational passport to the receiving school or educational facility.

(f) The commissioner of Juvenile Justice and the secretary of the Cabinet for Families and Children and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 20. The following KRS section is repealed:

610.267 Youth alternative centers.

SB 260, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when the person obtains ***the money,*** property***,*** or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The maker had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of ten dollars ($10), if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.

(5) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(7) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (5) or (6) of this section is three hundred dollars ($300) or more, in which case it is a Class

D felony.

SB 261, AN ACT relating to the compensation of crime victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including ***insurance deductibles, co-payments, coinsurance, medically necessary expenses not covered by insurance, and*** indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time. The board shall have the power to discontinue mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were broken or damaged during the crime.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. The claimant or victim must have been employed at the time the crime occurred. Said employment shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed five thousand dollars ($5,000).

(6) Any award made under this chapter shall not exceed twenty-five thousand dollars ($25,000) ***for expenses remaining after reductions set forth in subsection (1) of Section 2 of this Act have been deducted from the claim***.

(7) No award shall be made for any type of property loss or damage.

Section 2. KRS 346.140 is amended to read as follows:

(1) Any ***claim***~~[award]~~ made pursuant to this chapter shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from the following sources:

(a) From or on behalf of the person who committed the crime;

(b) Under insurance programs mandated by law;

(c) From public funds;

(d) Under any contract of insurance wherein the claimant is the insured or beneficiary; and

(e) As an emergency award pursuant to KRS 346.120.

(2) In determining the amount of an award, the board or board member, as the case may be shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board or board member shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the board or board member, as the case may be, may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurrence in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony. The board or board members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The board or board member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.

(3) The board or board member may consider whether the claimant's injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award. If the board or board member, as the case may be, finds that the claimant will not suffer serious financial hardships, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance pursuant to this chapter to meet such loss of earnings, support or out-of-pocket expenses, the board or board member shall deny an award. In determining such serious financial hardship, the board or board member shall consider all of the financial resources of the claimant. The board shall establish specific standards by rule for determining such serious financial hardships.

SB 263, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health Services, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, ***or***[~~and~~] salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, ***including*** their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, ***or***[~~and~~] salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, ***or***[~~and~~] salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3,4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including, but not limited to, Methcathinone, Cat, and Ephedrone).

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid.

Section 2. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock

probation.

(b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.

(4) ***If the defendant is a violent offender as defined in Section 3 of this Act, the sentence shall not be probated under this section.***

(5) If the defendant has been convicted of an offense under KRS~~[510.040,]~~ 510.050, ~~[510.070,]~~510.080, 530.020, 530.064, or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.

(6)~~[(5)]~~If the defendant has been convicted of an offense under KRS 510.060, 510.090, or 510.110, prior to considering the motion to suspend a sentence, the court shall order an evaluation of the defendant to be conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(7)~~[(6)]~~The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(8)~~[(7)]~~The provisions of this section shall not apply where a sentence of death has been imposed.

Section 3. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim or serious physical injury to a victim, or rape in the first degree or sodomy in the first degree of the victim. The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on ***probation or*** parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on ***probation or*** parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

Section 4. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; ***or penetration of the anus of one person by a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health care practices;***

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs~~[or anus]~~ of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ~~[or anus]~~ by a foreign object in the course of the performance of generally recognized health care practices; and

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor.

Section 5. KRS 500.050 is amended to read as follows:

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.

(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one (1) year after it is committed.

(3) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

~~[(4) No offense in KRS Chapter 510 involving deviate sexual intercourse or sexual intercourse by the other spouse shall be prosecuted unless formally reported to the police within one (1) year after the commission of the offense. The report shall be signed by the victim of the offense.]~~

SECTION 6. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

Unless a higher penalty is otherwise prescribed and notwithstanding any provision of this chapter to the contrary, a person who commits a third or subsequent misdemeanor offense under this chapter, except for violations of KRS 510.150, shall be guilty of a Class D felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) In any felony offense other than an offense under KRS Chapter 510 or KRS 530.020, 530.064, or 531.310, when sufficient evidence exists that would justify a finding of sexual motivation, the prosecutor may file a motion before trial, seeking a finding that the defendant has committed a sexually motivated offense. A sexually motivated offense is one where the primary motivation of the defendant was the accomplishment of an offense under KRS Chapter 510 or KRS 530.020, 530.064, or 531.310.

(2) Upon conviction, the sentencing judge shall hold a hearing to determine by clear and convincing evidence whether the defendant has committed a sexually motivated offense. At the hearing, the judge shall hear additional evidence by the defendant and by the Commonwealth as to whether the defendant has committed a sexually motivated offense. If the judge determines that the defendant has committed a sexually motivated offense, the judge shall make a written finding of fact and enter that in the court record and in the judgment rendered against the defendant.

(3) If the sentencing judge finds that the defendant has committed a sexually motivated offense, the defendant shall register as a sex offender under KRS 17.500 to 17.540, provide a blood sample for DNA testing and identification under KRS 17.170 and 17.175, and undergo sex offender treatment under KRS 197.400 to 197.440 or Section 10 of this Act.

Section 8. KRS 532.040 is amended to read as follows:

When a person is convicted of an offense, other than a capital offense ***or having been designated a violent offender as defined in Section 3 of this Act***, the court, where authorized by KRS Chapter 533 and where not prohibited by other provisions of applicable law, may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

SECTION 9. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for a person who has been designated as a violent offender as defined in Section 3 of this Act, unless such probation is granted in accordance with Section 3 of this Act.

Section 10. KRS 532.045 is amended to read as follows:

(1) As used in this section:

  (a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;

  (b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and

  (c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.

(2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS~~[510.040,]~~ 510.050,~~[510.070,]~~ 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:

  (a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;

  (b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;

  (c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

  (d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;

  (e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;

  (f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;

  (g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;

  (h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or

  (i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

  Nothing in this section shall be construed to prohibit the additional period of three (3) years conditional discharge required by KRS 532.043.

(3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of an evaluation of the offender performed by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The court shall use the evaluation in determining the appropriateness of probation or conditional discharge.

(4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services.

(5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the evaluation or treatment.

(6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.

(7) All communications relative to the evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings.

(8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the evaluation. It shall not be necessary to disclose the sources of confidential information.

(9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

Section 11. KRS 439.510 is amended to read as follows:

All information obtained in the discharge of official duty by any probation or parole officer shall be privileged and shall not be received as evidence in any court. Such information shall not be disclosed directly or indirectly to any person other than the court, board, cabinet, or others entitled under KRS 439.250 to 439.560 to receive such information, unless otherwise ordered by such court, board or cabinet. Information shall be made available to sex offender treatment programs operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services who request the information in the course of conducting an evaluation or treatment pursuant to KRS ***439.265(6)***~~[439.265(5)]~~, 532.045(3), or 532.050(4).

Section 12. The following KRS section is repealed:

510.310 Evidence of violation inadmissible in child custody or visitation suit -- Exception.

The House Committee Substitute No. 1 to **SB 263** is as follows:

SB 263, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health Services, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, ***or***~~[and]~~ salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, ***including*** their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, ***or***~~[and]~~ salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, ***or***~~[and]~~ salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3,4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including, but not limited to, Methcathinone, Cat, and Ephedrone).

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid.

Section 2. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release

following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.

(b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.

(4) ***If the defendant is a violent offender as defined in Section 3 of this Act, the sentence shall not be probated under this section.***

(5) If the defendant has been convicted of an offense under KRS[~~ 510.040,~~] 510.050, [~~510.070, ~~]510.080, 530.020, 530.064, or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.

(6)[~~(5)~~]If the defendant has been convicted of an offense under KRS 510.060, 510.090, or 510.110, prior to considering the motion to suspend a sentence, the court shall order an evaluation of the defendant to be conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(7)[~~(6)~~]The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(8)[~~(7)~~]The provisions of this section shall not apply where a sentence of death has been imposed.

Section 3. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim or serious physical injury to a victim, or rape in the first degree or sodomy in the first degree of the victim. The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on ***probation or*** parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on ***probation or*** parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

Section 4. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; ***or penetration of the anus of one person by a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health care practices;***

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs[~~ or anus~~] of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ[~~ or anus~~] by a foreign object in the course of the performance of generally recognized health care practices; and

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor.

Section 5. KRS 500.050 is amended to read as follows:

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.

(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one (1) year after it is committed.

(3) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

[~~(4) No offense in KRS Chapter 510 involving deviate sexual intercourse or sexual intercourse by the other spouse shall be prosecuted unless formally reported to the police within one (1) year after the commission of the offense. The report shall be signed by the victim of the offense.~~]

SECTION 6. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

Unless a higher penalty is otherwise prescribed and notwithstanding any provision of this chapter to the contrary, a person who commits a third or subsequent misdemeanor offense under this chapter, except for violations of KRS 510.150, may be convicted of a Class D felony. If the Commonwealth desires to utilize the provisions of this section, the Commonwealth shall indict the defendant and the case shall be tried in the Circuit Court as a felony case. The jury, or judge if the trial is without a jury, may decline to assess a felony penalty in a case under this section and may convict the defendant of a misdemeanor.

Section 7. KRS 532.040 is amended to read as follows:

When a person is convicted of an offense, other than a capital offense ***or having been designated a violent offender as defined in Section 3 of this Act***, the court, where authorized by KRS Chapter 533 and where not prohibited by other provisions of applicable law, may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter

534.

SECTION 8. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for a person who has been designated as a violent offender as defined in Section 3 of this Act, unless such probation is granted in accordance with Section 3 of this Act.

Section 9. KRS 532.045 is amended to read as follows:

(1) As used in this section:

(a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;

(b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and

(c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.

(2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS~~[510.040,]~~ 510.050,~~[510.070,]~~ 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:

(a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;

(b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;

(c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

(d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;

(e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;

(f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;

(g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;

(h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or

(i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of three (3) years conditional discharge required by KRS 532.043.

(3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of an evaluation of the offender performed by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The court shall use the evaluation in determining the appropriateness of probation or conditional discharge.

(4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services.

(5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the evaluation or treatment.

(6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.

(7) All communications relative to the evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings.

(8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the evaluation. It shall not be necessary to disclose the sources of confidential information.

(9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

Section 10. KRS 439.510 is amended to read as follows:

All information obtained in the discharge of official duty by any probation or parole officer shall be privileged and shall not be received as evidence in any court. Such information shall not be disclosed directly or indirectly to any person other than the court, board, cabinet, or others entitled under KRS 439.250 to 439.560 to receive such information, unless otherwise ordered by such court, board or cabinet. Information shall be made available to sex offender treatment programs operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services who request the information in the course of conducting an evaluation or treatment pursuant to KRS ***439.265(6)***~~[439.265(5)]~~, 532.045(3), or 532.050(4).

SECTION 11. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, any agency with the responsibility of entering domestic violence records into the Law Information Network of Kentucky shall notify:

(a) The court in the jurisdiction where the domestic violence order was issued under KRS 403.750; and

(b) The law enforcement agencies, as designated by the Kentucky State Police, that have jurisdiction in the county where the domestic violence order was issued and in the county of the victim's residence if different from the county where the domestic violence order was issued.

(2) The Kentucky State Police shall develop a protocol for providing notice to the required court and law enforcement agencies under subsection (1) of this section. Within the protocol, the Kentucky State Police shall designate which local law enforcement agencies are to receive notice in each county. A minimum of one (1) law enforcement agency shall be designated in each county.

(3) When a designated law enforcement agency for the county where the domestic violence order was issued or where the victim resides receives notice under subsection (1)(b) of this section, that agency shall make reasonable efforts to ensure that the petitioner who obtained the domestic violence order is notified that the respondent has purchased or attempted to purchase a firearm.

(4) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities.

(5) This section shall apply only to domestic violence orders issued, or reissued, on or after the effective date of this Act.

Section 12. KRS 421.500 is amended to read as follows:

(1) As used in KRS 421.500 to 421.575, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as stalking, unlawful imprisonment, use of a minor in a sexual performance, unlawful transaction with a minor in the first degree, terroristic threatening, menacing, harassing communications, intimidating a witness, criminal homicide, robbery, rape, assault, sodomy, kidnapping, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse, or incest. If the victim is a minor or legally incapacitated, "victim" means a parent, guardian, custodian or court-appointed special advocate. If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victim" for the purpose of exercising those rights contained in KRS 421.500 to 421.575:

(a) The spouse;

(b) An adult child if paragraph (a) of this subsection does not apply;

(c) A parent if paragraphs (a) and (b) of this subsection do not apply;

(d) A sibling if paragraphs (a) through (c) of this subsection do not apply; and

(e) A grandparent if paragraphs (a) through (d) of this subsection do not apply.

(2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged.

(3) Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:

(a) Availability of crime victim compensation where applicable;

(b) Community based treatment programs;

(c) The criminal justice process as it involves the participation of the victim or witness;

(d) The arrest of the accused; and

(e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.

(4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040, 524.045 or 524.055.

(5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:

(a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;

(b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, ***but not limited to,*** the defendant's release on bond and any special conditions of release; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; ***and of a scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing;*** and

(c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;

(d) The victim receives information on available:

1. Protective, emergency, social, and medical services;
2. Crime victim compensation, where applicable;
3. Restitution, where applicable;
4. Assistance from a victim advocate; and
5. Community-based treatment programs; and

(e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.

(6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.

(7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.

(8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.

(9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.

(10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

Section 13. KRS 508.130 is amended to read as follows:

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

(1) (a) To "stalk" means to engage in an intentional course of conduct:

1. Directed at a specific person or persons;
2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and

3. Which serves no legitimate purpose.

(b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

(2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. Constitutionally-protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.

(3) "Protective order" means:

(a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;

(b) A foreign protective order, as defined in KRS 403.7521(1);

(c) An order issued under KRS 431.064; and

(d) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

Section 14. KRS 508.140 is amended to read as follows:

(1) A person is guilty of stalking in the first degree,

(a) When he intentionally:

1. Stalks another person; and

2. Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:

a. Sexual contact as defined in KRS 510.010;

b. Serious physical injury; or

c. Death; and

(b) 1. A protective order~~[or other judicial order as provided for in KRS Chapter 403]~~ has been issued by the court to protect the same victim or victims and the defendant has been served with the summons or order or has been given actual notice; or

2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or

3. The defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor~~[, other than a violation of KRS 508.150,]~~ against the same victim or victims; or

4. The act or acts were committed while the defendant had a deadly weapon on or about his person.

(2) Stalking in the first degree is a Class D felony.

Section 15. The following KRS section is repealed:

510.310 Evidence of violation inadmissible in child custody or visitation suit -- Exception.

SB 309, AN ACT relating to trusts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

As used in Section 2 and Section 3 of this Act:

(1) "Life beneficiary" means a beneficiary who is a current permissible or mandatory recipient of income or principal from the trust, or, if more than one (1), the beneficiary or beneficiaries of the oldest generation;

(2) "Remainder beneficiary" means a beneficiary who would have received the trust property in fee but for the continuation of the trust by the corporate trustee;

(3) "A portion or all of the trust" means a portion, including all, of any remainder beneficiary's share of the trust to which the remainder beneficiary would be entitled in fee following the death of the life beneficiary. The portion of each of the remainder beneficiary's share that is continued shall be held as a separate trust;

(4) "Trust" has the same meaning as set forth in KRS 386.800; and

(5) "Corporate trustee" means a trust company or a bank empowered as a fiduciary.

SECTION 2. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) A corporate trustee administering a trust may continue the term of a portion of the trust so long as the period of the continuation does not extend beyond the term of the Rule Against Perpetuities, as set forth in KRS 381.215, that is applicable to the trust.

(2) Subject to KRS 381.215, the portion of the trust continued by the corporate trustee shall continue for the life of the

remainder beneficiary of the trust, upon the same terms and conditions as provided in the trust, for the term preceding the life beneficiary's death. In addition, commencing with the death of the life beneficiary, the remainder beneficiary may withdraw that portion of the trust that has been continued by giving written notice to the corporate trustee. However, each year five percent (5%) of the remainder beneficiary's right of withdrawal shall lapse on December 31, and the lapses shall be cumulative.

(3) The corporate trustee's authority granted in subsection (1) of this section shall not apply to any portion of a trust which:

(a) Continues by its terms after the death of the life beneficiary; or

(b) Has been pledged to secure a debt.

(4) This section shall apply to any trust that was irrevocable on January 1, 1976.

Section 3. KRS 287.220 is amended to read as follows:

(1) When acting as a fiduciary or in any other capacity in which the duties, powers, liabilities, rights, and compensation are regulated by law, or under the control or supervision of the court, banks and trust companies shall, except as provided in subsection (2) ***and subsection (3) of this section***, be subject to the same duties and responsibilities, have the same rights and powers, and receive the same compensation as is allowed the individual holding or exercising similar offices or trusts.

(2) Upon all bonds required to be executed by such corporation before any court, the capital stock shall be the only security required for the faithful performance of its duties, unless the court or officer before whom the bond is executed, or some party in interest demands additional security.

(3) A bank or trust company serving as a trustee of multiple trusts having one (1) or more common beneficiaries or remainder beneficiaries, need not obtain court approval for performance or execution of its duties, and it shall not be considered a conflict of interest solely because all beneficiaries or remainder beneficiaries of the trusts are not identical.

SB 316, AN ACT relating to supersedeas bonds and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) If the appellee in a civil action obtains a judgment for punitive or exemplary damages and the appellant seeks a stay of enforcement of the judgment in order to obtain review by an appellate court, the supersedeas bond for the punitive damages portion of the judgment on appeal shall not exceed one hundred million dollars ($100,000,000).

(2) If the appellee proves by a preponderance of the evidence that a party bringing an appeal, for whom the supersedeas bond requirement has been limited, is purposefully dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding ultimate payment of the punitive damages judgment, the limitation granted under subsection (1) of this section shall be rescinded and the bond requirement shall be reinstated for the full amount of the judgment.

Section 2. KRS 426.965 is amended to read as follows:

(1) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(2) If the judgment debtor shows the court any ground upon which enforcement of a judgment of any court of this state would be stayed, ***including the ground that an appeal from the foreign judgment is pending or will be taken, or that the time for taking such an appeal has not yet expired,*** the court shall stay enforcement of the foreign judgment for an appropriate period ***until all available appeals are concluded or the time for taking all appeals has expired***, upon requiring the same security for satisfaction of the judgment which is required in this state***, subject to Section 1 of this Act***.

Section 3. The provisions of Sections 1 and 2 of this Act are hereby expressly declared to be retroactive and may be applied to all civil actions, including those on appeal, presently docketed in the courts of this Commonwealth.

Section 4. Whereas the business environment of the state is under an unreasonable burden and the protection of the economy of this state is a matter directly related to the well-being of the citizens of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SCR 4, A CONCURRENT RESOLUTION relating to sharing of juvenile records.

WHEREAS, Kentucky has implemented improved sharing of juvenile records within the state; and

WHEREAS, Kentucky is bordered by seven other states and children are constantly moving into Kentucky; and

WHEREAS, unfortunately, a small number of these children have juvenile criminal records in the jurisdictions from which they come; and

WHEREAS, the juvenile records of children from other states are generally unavailable due to confidentiality laws in other states; and

WHEREAS, the unavailability of these records, sometimes even to law enforcement and juvenile service agencies, particularly to schools and agencies with a legitimate interest, causes a situation where a dangerous child may be in the community without anyone knowing about it; and

WHEREAS, a number of these juveniles continue to commit criminal acts in Kentucky, and it is important that states share juvenile records with public agencies with a need to know;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Justice Cabinet and its agencies, particularly the Kentucky State Police and the Department of Juvenile Justice, are urged to confer with representatives of the federal government and with other states to implement record sharing with regard to juvenile criminal and related records.

Section 2. The Administrative Office of the Courts is urged to confer with courts and court support agencies of the federal courts and courts of other states to implement record sharing with regard to juvenile criminal and related records.

Section 3. Each state and the federal government is urged to join with Kentucky in a nationwide program to share juvenile criminal and related records for the public safety and benefit of all jurisdictions.

Section 4. The Clerk of the Senate is directed to send a copy of this resolution to the President of the United States, to the governor of each state, and to the Justice Cabinet and the Administrative Office of the Courts.

The House Committee Amendment No. 1 to **SCR 4** is as follows:

On page 1, by adding " and" at the end of the last WHEREAS clause;

On page 1, between the final WHEREAS clause and the line stating "NOW, THEREFORE,", by inserting the following:

"WHEREAS, the Juvenile Justice Advisory Committee has approved the mission statement of the Subcommittee on Equity and Justice for All Youth (SEJAY), which requires SEJAY to develop a comprehensive strategy for raising awareness of overrepresentation of minorities in the juvenile justice system and to promote policies to reduce this problem; and

WHEREAS, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, requires those participating states that discover disproportionate confinement of minority juveniles to develop a plan for reducing such disproportionate confinement; and

WHEREAS, Kentucky, a participating state, needs data to identify the level of disproportionate confinement and overrepresentation of minorities in the juvenile justice system;";

On page 2, between lines 2 and 3, by inserting the following, and renumbering the subsequent section accordingly:

"Section 4. The Department of Juvenile Justice, in cooperation with the Administrative Office of the Courts, is urged to use the funds available through the Federal Juvenile Justice and Delinquency Prevention Act of 1974 to conduct research and provide data identifying and analyzing the decision making processes in the juvenile justice system regarding the determination to confine youth, and reasons why those processes result in disproportionate confinement of minority youth. The research should include a summary of existing state data, and should recommend improvements to existing data systems.

Section 5. To the extent federal funds are allocated by the Juvenile Justice Advisory Committee for the purpose outline in Section 4 of this Act, the Department of Juvenile Justice is encouraged to contract with an expert in the field of overrepresentation of minority youth to oversee and coordinate research."

The Committee Amendment No. 2 Title to **SCR 4** is as follows:

By amending the title to read as follows:

"A CONCURRENT RESOLUTION relating to juvenile justice."

The Committee on State Government reported **SB 15** and **SB 155** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 15, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in KRS 61.510(22). Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described KRS 61.560(4), by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any ***employee participating in one (1) of the systems administered by the Kentucky Retirement Systems***~~[member of the Kentucky Employees Retirement System]~~ age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or***, if younger,***~~[any member of the Kentucky Employees Retirement System or the State Police Retirement System]~~ who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system the full actuarial cost as determined by the system. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4), and shall be deposited in the member's individual retirement account.

(9) Notwithstanding the provisions of subsection (7) of this section, any employee hired prior to January 1, 2001, who

participates in one (1) of the systems administered by the Kentucky Retirement Systems who has sixty (60) months of service may purchase up to four (4) years' credit for his period of active military duty in the Armed Forces of the United States by paying the retirement system the full actuarial cost as determined by the system. The service shall not be included in the member's total service for purposes of KRS 61.702. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4), and shall be deposited in the member's individual retirement account.

SB 155, AN ACT relating to the state lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154A.063 is amended to read as follows:

(1) The corporation shall not utilize amateur athletics for any purpose including, but not limited to, advertising, promoting, conducting a lottery, or as a basis for a lottery.

(2) The corporation shall not approve and operate any casino or similar gambling establishment and shall not approve or operate any game played with playing cards, dice, dominos, slot machines, roulette wheels, or where winners are determined by the outcome of a sports contest.

(3) *The corporation shall not approve or operate any game involving the use of a video lottery terminal, video slot machine, video poker machine, or any similar interactive video gaming device unless specifically authorized by legislative enactment of the Kentucky General Assembly.*

(4) This section shall not be construed to prohibit the corporation from advertising the lottery at, during, or in connection with a sports contest.

Calendar

SB 86, SB 165, SB 192, SB 305, SB 336, HR 106, HJR 145, SB 87, SB 134, SB 248, SB 280, and **SB 315** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Major General B. Bell, Commander General, Fort Knox, addressed the Body.

Representative Webb moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Webb moved the adoption of the following **Legislative Citation No. 135**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to the Kentucky Christian College Lady Knights Basketball Team upon capturing the National Christian College Athletic Association Division II National Championship Title for the sixth time in twelve years. Under the skilled tutelage of Head Coach Ron Arnett, named the NCCAA Division II 2000 Coach of the Year, this extraordinary team has demonstrated remarkable talent and dedication to the sport of basketball and, as a result, has brought great honor to both school and community. The members of this distinguished body are delighted to join with Representative Robin L. Webb in applauding the achievements of the Kentucky Christian College Lady Knights Basketball Team and in extending best wishes for continued academic and athletic victories. Done in Frankfort, this twenty-second day of March, in the year two thousand.

Legislative Citation No. 135 was adopted without objection.

Representative Lee moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Lee moved the adoption of the following **Legislative Citation No. 134**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates the Elizabethtown High School Boys Basketball Team for phenomenal skill and perseverance which resulted in this extraordinary group of athletes, "the comeback kids," winning the 2000 Kentucky High School Athletic Association Boys Sweet Sixteen State Basketball Tournament. Inasmuch as this championship team, under the skilled tutelage of coach James Haire, has demonstrated remarkable talent and dedication to the sport of basketball and, as a result, has brought great honor to both school and community, the members of this distinguished body are delighted to join with Representative Jimmie Lee in applauding the stellar achievements of the Elizabethtown High School Panthers Boys Basketball Team. Done in Frankfort, this twenty-second day of March, in the year two thousand.

Legislative Citation No. 134 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 87, HB 88, HB 89, HB 130, HB 141, HB 259, HB 301, HB 335, HB 506, HB 540, HB 662, HB 663, HB 692,** and **HCR 112** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:00 p.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office and a meeting on the Committee on Health and Welfare to meet in the Speaker Pro Tem's office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Rasche moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Rasche moved the adoption of the following **Legislative Citation No. 132**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Partnership for Kentucky Schools and its three corporate sponsors, United Parcel Service, Ashland, Inc., and Humana, Inc., upon being named the well-deserving recipients of the premier Leaders for Change Decade Award, sponsored by the Council for Aid to Education. Providing leadership, resources, public information and tools for assistance at the local level and policy direction for implementation of education reform at the state level, the Partnership for Kentucky Schools, with the support of their sponsors, has worked with great dedication and diligence to inform the public and legislative body of this Commonwealth about the vital importance of education reform. Lending critical support through their corporate sponsorship, UPS, Ashland, Inc., and Humana, Inc., have each invested more than $275,000 annually to facilitate the work of the Partnership, which includes the promotion of community involvement with local school boards and the direct support of education at the local level by building networks of local education supporters and community/education collaborations. The members of this honorable body are pleased to join Speaker Jody Richards in commending the phenomenal efforts of this organization, recognizing the precedent which has been set of a productive alliance between educational institutions and the business community. Therefore, the Partnership for Kentucky Schools and its esteemed corporate sponsors are extended expressions of sincere gratitude for their ambitious and successful support of the educational efforts of this great Commonwealth. Done in Frankfort, this twenty-second day of March, in the year two thousand.

Legislative Citation No. 132 was adopted without objection.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 137, SB 279, SB 341, HR 106, HJR 145, SB 86, SB 87, SB 192, SB 280, SB 305,** and **SB 336** have been posted for passage in the Orders of the Day for March 23, 2000.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **SB 221**

Orders of the Day

SB 232 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 232** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 22 , 2000 roll call on **SB 232** - Appendix.)

SB 232 was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 232** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 186 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SB 186** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 22 , 2000 roll call on **SB 186** - Appendix.)

SB 186 was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 186** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SB 247** be recommitted to the Committee on Licensing and Occupations. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 247**. Agreed.

SB 57, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the House Committee Substitute to **SB 57**. Agreed.

Representative A. Arnold moved that **SB 57**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 22, 2000 roll call on **SB 57** - Appendix.)

SB 57, by way of House Committee Substitute, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **SB 57**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 21, with House Committee Amendment and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of House Committee Amendment No. 1 to **SB 21**. Agreed.

Representative Lee moved the adoption of House Floor Amendment No. 1 to **SB 21**. Agreed.

Representative Yonts moved that **SB 21**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 22, 2000 roll call on **SB 21** - Appendix.)

SB 21, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **SB 21**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 39, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SCR 39** be adopted.

Representative Damron moved the adoption of House Floor Amendment No. 1 to **SCR 39**. Agreed.

Representative Burch moved that **SCR 39**, as amended, be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 22, 2000 roll call on **SCR 39** - Appendix.)

SCR 39, as amended, was adopted.

Representative Burch moved that the vote by which **SCR 39**, as amended was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 153 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HR 153** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 22, 2000 roll call on **HR 153** - Appendix.)

HR 153 was adopted.

Representative Siler moved that the vote by which **HR 153** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 116, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the House Committee Substitute to **SB 116**. Agreed.

Representative Geveden moved that **SB 116**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 22, 2000 roll call on **SB 116** - Appendix.)

SB 116, by way of House Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 116**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 167, with House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of House Committee Amendment No. 1 to **SB 167**. Agreed.

Representative Lindsay moved that **SB 167**, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 4**. (See March 22, 2000 roll call on **SB 167** - Appendix.)

SB 167, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 167**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 198, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of House Floor Amendment No. 1 to **SB 198**. Agreed.

Representative Lindsay moved that **SB 198**, as amended, be passed.

Representative Stewart inquired if **SB 198** required a fiscal note.

Representative Lindsay replied that no money was involved.

Representative Lindsay moved that **SB 198**, as amended, be passed.

On the roll call the vote was: **Yeas 64, Nays 33**. (See March 22, 2000 roll call on **SB 198** - Appendix.)

SB 198, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 198**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 87, HB 88, HB 89, HB 130, HB 141, HB 259, HB 301, HB 335, HB 506, HB 540, HB 662, HB 663, HB 692, and **HCR 112** delivered to the Senate and signed by the President. Delivered to the Governor on March 22, 2000, at 3:21 p.m.

Orders of the Day (Continued)

SB 331 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved that **SB 331** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 22 , 2000 roll call on **SB 331** - Appendix.)

SB 331 was passed and the title agreed to.

Representative Crall moved that the vote by which **SB 331** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 351 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 351** be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See March 22 , 2000 roll call on **SB 351** - Appendix.)

SB 351 was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 351** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 300 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **SB 300** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 22 , 2000 roll call on **SB 300** - Appendix.)

SB 300 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **SB 300** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 130, with House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved the adoption of House Committee Amendment No. 1 to **SB 130**. Agreed.

Representative Buckingham moved that **SB 130**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 22, 2000 roll call on **SB 130** - Appendix.)

SB 130, as amended, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **SB 130**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 36, with House Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 36**, with House Committee Amendment attached thereto, be withdrawn from the Orders of the Day. Agreed.

SB 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved that **SB 72** be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 22 , 2000 roll call on **SB 72** - Appendix.)

SB 72 was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **SB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 73 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative C. Belcher moved that **SB 73** be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 22 , 2000 roll call on **SB 73** - Appendix.)

SB 73 was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **SB 73** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HR 151** be placed in the Orders of the Day. Agreed.

Representative Stumbo moved that **SB 247** be recommitted to the Committee on Licensing and Occupations. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 28, SB 119, SB 77, SB 227, SB 323, SB 347, SJR 114, SB 260, SB 261, SB 379**, and **SB 372**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived retroactively on **SB 15**. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 23, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 174, by Representative Miller: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dawson Orman.

HR 175, by Representative Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kay Kimbler.

HR 176, by Representative C. Belcher: A RESOLUTION proclaiming January 20-21, 2001, as World Religion Weekend in the Commonwealth of Kentucky.

Report of Committees (Continued)

The Committee on Natural Resources and Environment reported **SB 290**, with House Committee Substitute attached thereto, **SB 409**, with House Committee Substitute attached thereto, and **HCR 154**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 290, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 13 of this Act are intended to establish an efficient and predictable process, within the context of KRS 224.01-400 and 224.01-405, to promote voluntary cleanup and redevelopment of properties suspected of environmental contamination. This process will further the public purposes of protecting human health and the environment while stimulating economic development and job creation through the construction of new residential, commercial, and industrial facilities. Sections 1 to 13 of this Act shall not apply to radioactive material facilities licensed under KRS 211.842 to 211.852 and the administrative regulations promulgated pursuant thereto.

SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 13 of this Act:

(a) "Hazardous substance" shall have the meaning in KRS 224.01-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.01-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.01-400(2), any hazardous substance included in KRS 224.01-400(3), and any substance that the cabinet determines to be hazardous under environmental protection laws and administrative regulations;

(b) "Petroleum" means petroleum and crude oil or any part of petroleum or crude oil that is liquid at standard conditions of temperature and pressure;

(c) "Remediation" means the characterization of the extent of a release of hazardous substances or petroleum as necessary to determine the effects of the release, and actions necessary to correct the effects of the release, as required under KRS 224.01-400(18) and (20); and

(d) "Site," for the purposes of Sections 1 to 13 of this Act, means a tract of real property for which an application has been submitted under Section 3 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A Voluntary Environmental Remediation Program is established and shall be administered by the cabinet in accordance with Sections 1 to 13 of this Act. Any person may apply to enter the program.

(2) Any person may apply to enter a site in the program, unless the site is:

(a) On the National Priorities List established by the United States Environmental Protection Agency; or

(b) A treatment, storage, or disposal facility for which a permit has been issued, or is otherwise subject to Federal Resource Conservation and Recovery Act (RCRA) corrective action requirements, pursuant to KRS 224.46-530.

(3) To apply to enter the voluntary environmental remediation program, an applicant shall:

(a) Respond accurately and completely to all questions on an application provided by the cabinet;

(b) Include an environmental assessment of any actual or threatened release of a hazardous substance or petroleum at the site; and

(c) Submit a nonrefundable application fee. The fee shall be one thousand dollars ($1,000) for sites up to three (3) acres in size. The fee for sites greater than three (3) acres but less than ten (10) acres shall be two thousand five hundred dollars ($2,500). The fee for sites of ten (10) acres or larger shall be three thousand five hundred dollars ($3,500). However, a political subdivision of the state, and its agencies and instrumentalities, shall be exempt from paying the fee for sites that are publicly owned.

(4) Fees collected under this section shall be deposited in the hazardous waste management fund set out in KRS 224.46-580(13). The secretary shall use the fees to administer the voluntary environmental remediation program.

(5) The cabinet shall, if requested, meet with the applicant either before or after submittal of a formal application to discuss the sufficiency of the environmental assessment required to be submitted with the application.

(6) The cabinet shall notify the Department for Public Health when an application is received with information regarding the actual or threatened release of hazardous substances over which the Department for Public Health has regulatory authority.

SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall notify an applicant for the voluntary environmental remediation program within forty-five (45) days of receipt of the application if the application is accepted.

(2) The cabinet may reject an application if:

- *(a) The hazardous substance or petroleum described in the application constitutes an imminent and substantial threat to human health or the environment;*
- *(b) The application is not complete; or*
- *(c) A state or federal enforcement action is pending concerning the site described in the application.*

(3) If the cabinet rejects an application, the cabinet shall notify the applicant in writing, stating the reasons for the rejection. If the reason for rejection is incompleteness, the cabinet shall inform the applicant of the information needed to make the application complete.

(4) The applicant may submit within ninety (90) days of receipt of the initial rejection notice a completed or revised application without incurring an additional fee.

(5) Within forty-five (45) days of resubmittal, the cabinet shall review any revised or completed application and notify the applicant in writing of its determination to accept or reject the application. If the cabinet rejects the application again for incompleteness, the cabinet shall again inform the applicant of the information needed to make the application complete. The cabinet may assess a new application fee for the resubmittal.

(6) If the applicant's second revised application fails to provide the information necessary to address all the concerns of the cabinet, the applicant and the cabinet may meet to clarify the cabinet's expectations and concerns.

SECTION 5. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Before the cabinet may evaluate a work plan concerning a voluntary environmental remediation project, the applicant and the cabinet shall enter into an agreement which shall set forth the mutual responsibilities of the parties with respect to the project.

(2) A voluntary remediation agreement shall include:

- *(a) The applicant's agreement to perform additional site characterization necessary to determine the extent of a release under KRS 224.01-400(18) and to submit to the cabinet a voluntary remediation work plan. The work plan shall be provided to the cabinet within one hundred twenty (120) days after the date the voluntary remediation agreement is signed or one hundred fifty (150) days after the applicant receives written notice of acceptance into the program, whichever occurs first. The cabinet and the applicant may agree to a longer period;*
- *(b) A schedule for the cabinet to review and evaluate the adequacy of the remediation work plan;*
- *(c) An itemized list of the estimated costs the cabinet expects to incur for its review and oversight of the remediation project;*
- *(d) The applicant's agreement to reimburse the cabinet for all reasonable costs of review and oversight that exceed the program's application fee;*
- *(e) A schedule of the applicant's payments to reimburse the cabinet for its costs. The cabinet may waive in whole or in part its right to be reimbursed its costs related to sites of less than three (3) acres if the cabinet determines the waiver will best serve the public interest;*
- *(f) A requirement that records related to the site's remediation be retained; and*
- *(g) Any other provisions the parties agree are necessary for the effective and efficient implementation of Sections 1 to 13 of this Act.*

(3) A voluntary remediation agreement entered into under this section shall have the force and effect of an agreed order signed by the secretary.

(4) If the applicant and the cabinet are unable to negotiate an agreement in good faith within a reasonable time after negotiations have commenced, the cabinet may withdraw from further negotiations. Upon withdrawing, the cabinet shall reject the application for incompleteness and notify the applicant of the rejection.

SECTION 6. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon execution of a voluntary remediation agreement, the applicant may submit to the cabinet a site characterization

report and a voluntary remediation work plan.

(2) If the applicant is a bona fide purchaser who acquired the site after the effective date of Sections 1 to 13 of this Act, and the applicant did not cause the release that is a subject of the work plan, and the person who did cause the release either cannot be found or is not financially responsible, then the applicant's work plan shall not be required to address contamination that may have migrated off the site.

(3) The voluntary remediation work plan for sites involving hazardous substances over which the Department for Public Health has regulatory authority shall, at the time of submittal to the cabinet, also be submitted to the commissioner of the Department for Public Health.

(4) A voluntary remediation work plan shall include:

(a) Detailed documentation of the investigation conducted by the applicant to determine the nature and extent of a release or threatened release as required under KRS 224.01-400 and 224.01-405 and a description of any remediation work performed on the site;

(b) A statement of any work proposed to accomplish the remediation in accordance with KRS 224.01-400 and 224.01-405, together with a proposed schedule for implementation;

(c) Descriptions of sampling and analysis methods, techniques, and results, and quality assurance methods and controls used or proposed;

(d) A description of measures to protect human health and safety during the project;

(e) A plan of action to inform the public about the remediation project and redevelopment of the site and to provide for meaningful public comment; and

(f) Identification of any limitations on land activity or use proposed for the project.

(5) The voluntary remediation work plan shall identify any petroleum storage tanks on the site and indicate how the applicant intends to comply with the requirements of Subchapter 60 of KRS Chapter 224 and 401 KAR Chapter 42.

SECTION 7. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days of receipt of a voluntary remediation work plan, the cabinet shall:

(a) Review the work plan and evaluate the site and any relevant conditions in the area surrounding the site;

(b) Review and evaluate the documentation of the investigation and any remediation feasibility study conducted for the site; and

(c) Approve or reject the voluntary remediation work plan.

(2) However, if the site investigation reveals the presence of off-site contamination that appears to originate on the site, the cabinet shall have one hundred twenty (120) days to approve or reject the work plan.

(3) The cabinet may request an applicant to submit additional or corrected information during the applicable evaluation period. If the cabinet makes a request, the applicant may:

(a) Comply with the request by notifying the cabinet in writing. From the date of sending the notice to the cabinet until the additional or corrected information is submitted to the cabinet, the applicable evaluation period shall be suspended; or

(b) Petition for a hearing in accordance with KRS 224.10-420(2). From the date of filing the petition until the entry of a decision on the appeal, the applicable evaluation period shall be suspended.

(4) If the cabinet approves a voluntary remediation work plan, the cabinet shall notify the applicant in writing.

(5) If the cabinet rejects a voluntary remediation work plan, it shall notify the applicant in writing, specifying the reasons for the rejection. The cabinet shall also apprise the applicant of the right to appeal the decision in accordance with KRS 224.10-420(2). Within thirty (30) days of receipt of the notice of rejection, the applicant shall inform the cabinet if a revised work plan or completion report will be submitted.

(6) Upon full performance of an approved remediation work plan, a remediation completion report shall be submitted to the cabinet for review. The remediation completion report shall be reviewed in the same manner as the work plan.

SECTION 8. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Before the cabinet acts on a proposed voluntary remediation work plan, the applicant shall:

(a) Notify local government units affected by the remediation work of the provisions of the work plan or the completion report;

(b) Require that a copy of the work plan be made available to the public in at least one (1) public library in any county affected by the remediation work;

(c) Publish in a newspaper of general circulation in the county where the remediation site is located, a notice

requesting public comment on the voluntary remediation work plan; and

(d) Post on the site notice that the site is the subject of a remediation work plan which is available for public review and comment.

(2) A comment period of at least thirty (30) days shall follow publication of the notice. During the comment period, any person may submit written comments to the cabinet concerning the work plan and may request a public hearing. The cabinet may hold a public hearing if the request is made.

(3) The cabinet may hold a public hearing in any geographical area affected by the remediation work on the question of whether to approve or reject the work plan.

(4) The cabinet shall consider all written comments and public testimony prior to taking any action.

SECTION 9. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) When an applicant has successfully completed an approved voluntary remediation work plan, as documented in the approved remediation completion report, the cabinet shall certify that the work plan has been completed and that no further remediation is required and shall issue the applicant a covenant not to sue.

(2) The covenant not to sue shall be recordable among the real estate records in the office of the county clerk where the remediated property is located.

(3) The issuance of a covenant not to sue shall be a final agency action. The covenant shall be considered prima facie evidence that the site does not constitute a known threat to human health or the environment and does not require any additional remediation with respect to any hazardous substance or petroleum that was the subject of the approved work plan, if the site is used in compliance with the terms of the covenant. The issuance of the covenant shall bar cabinet enforcement of civil claims arising under KRS 224.01-400 and 224.01-405 and injunctive relief regarding the site benefiting from the covenant. However, nothing in Sections 1 to 13 of this Act shall otherwise preclude the cabinet from taking appropriate action against persons who may have caused releases. Upon issuance of the covenant, the cabinet shall be deemed to have waived its right to assert a lien under KRS 224.01-400(23) except as necessary to recover oversight costs incurred by the cabinet in connection with the approved remediation project.

(4) Except for private causes of action arising under common law, including those addressed in KRS 411.500 to 411.570, a covenant not to sue shall bar all statutory claims arising from the release or threatened release of a hazardous substance or petroleum product on the site against the covenant holder who performed the remediation and any successor to any part of the covenant holder's real property interest.

(5) The covenant shall be void if:

(a) A site condition appears that was not known to the cabinet prior to the issuance of the covenant;

(b) The site is not managed in compliance with the terms of the covenant or the approved remediation work plan; or

(c) The development of scientific knowledge indicates that a residual contamination in levels previously considered safe now constitutes a serious threat to public health and the environment.

(6) A person who receives a covenant not to sue from the cabinet under this section shall, within thirty (30) days of receipt, record the covenant among the real estate records in the office of the county clerk in the county where the site is located. The covenant shall become effective after it is recorded and a certified copy delivered to the cabinet.

(7) A remediation work plan and remedial action shall not be required if:

(a) The nature and extent of the hazardous substance or petroleum are adequately characterized in the application for entry into the voluntary environmental remediation program; and

(b) The quantity of any hazardous substance or petroleum on site is demonstrated to be below action levels established under Section 11 of this Act; or

(c) The site conforms to KRS 224.01-400(19).

SECTION 10. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The following actions of the cabinet shall be considered final determinations that may be appealed in accordance with KRS 224.10-420(2):

(1) Rejection of an application to participate in the voluntary environmental remediation program;

(2) Withdrawal from negotiations with an applicant for a voluntary remediation agreement;

(3) Rejection or approval of a voluntary remediation work plan; and

(4) Issuance or denial of a covenant not to sue.

SECTION 11. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The numerical values contained in the document titled "Region 9 Preliminary Remediation Goals", published by the United States Environmental Protection Agency's Region 9, are hereby established as screening levels and shall be used by the cabinet to evaluate, in conformance with the guidance set out in the Region 9 Preliminary Remediation Goals, whether remediation is necessary on any site. It is not the intent of this section to establish these levels as the cleanup standards for individual contaminants that may be present at any site.

SECTION 12. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall publish necessary guidance documents, forms, procedures and other administrative regulations that are required to implement the provisions of Sections 1 to 13 of this Act by December 31, 2000.

SECTION 13. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 13 of this Act may be cited as the Voluntary Environmental Remediation Act.

The House Committee Substitute No. 1 to **SB 290** is as follows:

SB 290, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 and Sections 12, 13, 14, 15, and 16 of this Act are intended to establish an efficient and predictable process, within the context of KRS 224.01-400 and 224.01-405, to promote voluntary cleanup and redevelopment of properties suspected of environmental contamination. This process will further the public purposes of protecting human health and the environment while stimulating economic development and job creation through the construction of new residential, commercial, and industrial facilities. Sections 1 to 11 and Sections 12, 13, 14, 15, and 16 of this Act shall not apply to radioactive material facilities licensed under KRS 211.842 to 211.852 and the administrative regulations promulgated pursuant thereto.

SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

(1) "Hazardous substance" shall have the meaning in KRS 224.01-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.01-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.01-400(2), and any hazardous substance included in KRS 224.01-400(3);

(2) "Petroleum" shall have the meaning set forth in KRS 224.60-115(15);

(3) "Petroleum storage tank" shall have the meaning set forth in KRS 224.60-115(16);

(4) "Property" means a tract of real property for which an application has been submitted under Section 3 of this Act;

(5) "Remediation" means the characterization of a release of a hazardous substance or petroleum, as necessary to determine the effects of the release on the environment, and actions necessary to correct the effects of the release on the environment, as required by KRS 224.01-400 for hazardous substances, pollutants, or contaminants or KRS 224.01-405 for petroleum; and

(6) "Site" shall have the meaning in KRS 224.01-400(1)(c).

SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A Voluntary Environmental Remediation Program is established and shall be administered by the cabinet in accordance with Sections 1 to 11 of this Act.

(2) Any person may apply to enter a property in the program, unless:

  (a) The property is part of or contains a site which is on the National Priorities List established by the United States Environmental Protection Agency;

  (b) The property on which the site is located is a hazardous waste treatment, storage, or disposal facility for which a Resource Conservation and Recovery Act permit has been issued, or the site is otherwise the subject of hazardous waste closure or corrective action;

  (c) The property or site is the subject of state or federal environmental enforcement action relating to the release of a hazardous substance, for which the application is submitted;

  (d) The property or site presents an environmental emergency, as defined in KRS 224.01-400, provided that a

release of oil or a hazardous substance in a reportable quantity shall not be considered an environmental emergency, for purposes of Sections 1 to 11 of this Act only, unless the release also presents an imminent and substantial danger to human health or the environment; or

(e) The cabinet determines that the release for which participation is sought occurred subsequent to the effective date of this Act.

(3) To apply to enter the voluntary environmental remediation program, an applicant shall:

(a) Respond accurately and completely to all questions on an application provided by the cabinet;

(b) Provide a characterization plan for the release or threatened release adequate to comply with KRS 224.01-400, 224.01-405, Sections 1 to 11 of this Act, and any regulations promulgated pursuant thereto; and

(c) Submit a nonrefundable application fee. The fee shall be one thousand dollars ($1,000) for properties up to three (3) acres in size. The fee for properties greater than three (3) acres but less than ten (10) acres shall be two thousand five hundred dollars ($2,500). The fee for properties of ten (10) acres or larger shall be three thousand five hundred dollars ($3,500). However, a political subdivision of the state, and its agencies and instrumentalities, shall be exempt from paying the fee for properties that are publicly owned.

(4) Fees and costs collected under Sections 1 to 11 of this Act shall be deposited in the hazardous waste management fund set out in KRS 224.46-580(13). The cabinet shall use the fees and costs to administer the voluntary environmental remediation program.

(5) The cabinet shall, if requested, meet with the applicant either before or after submittal of an application to discuss the sufficiency of the application.

(6) The cabinet shall notify the Department for Public Health when the cabinet receives an application with information pertaining to an actual or threatened release of a hazardous substance over which the Department for Public Health has regulatory authority.

SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall notify an applicant for the voluntary environmental remediation program within forty-five (45) working days of receipt of the application as to whether the application is accepted or denied.

(2) The cabinet shall deny an application if:

(a) The cabinet determines the property is ineligible to participate in the program under the provisions of Sections 1 to 11 of this Act;

(b) The cabinet withdraws from agreed order negotiations pursuant to the provisions of Section 5 of this Act; or

(c) The application is not complete.

(3) If the cabinet denies an application, the cabinet shall notify the applicant in writing, stating the reasons for the denial. If the reason for denial is incompleteness, the cabinet shall inform the applicant of the information needed to make the application complete.

(4) The applicant may submit, within ninety (90) working days of receipt of the initial denial notice, a completed or revised application without incurring an additional fee.

(5) Within forty-five (45) working days of resubmittal, the cabinet shall review any revised or completed application and notify the applicant in writing of its determination to accept or deny the application. If the cabinet denies the application again for incompleteness, the cabinet shall again inform the applicant of the information needed to make the application complete. The cabinet may assess a new application fee for the resubmittal.

(6) If the applicant's second revised application fails to provide the information necessary to address all the concerns of the cabinet, the applicant and the cabinet may meet to clarify the cabinet's expectations and concerns.

SECTION 5. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Once an application is accepted, the applicant and the cabinet shall enter into an agreed order which shall set forth the mutual responsibilities of the parties with respect to the remediation project.

(2) A voluntary remediation agreed order shall include:

(a) The applicant's agreement to:

1. Characterize the release in accordance with KRS 224.01-400, 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated pursuant thereto;

2. Submit to the cabinet on the agreed schedule a characterization report and a corrective action plan complying with KRS 224.01-400, KRS 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated pursuant thereto within one hundred twenty (120) days after the date the agreed order is entered by the secretary of the cabinet, or such longer period agreed upon by the parties;

and

3. Submit to the cabinet a corrective action report by the date agreed upon by the parties. The corrective action report shall contain a certification by the applicant that the remediation has been completed in accordance with the approved corrective action plan;

(b) A general listing of the estimated costs the cabinet expects to incur for its review and oversight of the remediation;

(c) The applicant's agreement to reimburse the cabinet for all reasonable actual and necessary costs of review and oversight that exceed the program's application fee, along with a schedule of the applicant's payments to reimburse the cabinet for its costs. The cabinet may waive in whole or in part its right to be reimbursed its costs related to properties of less than three (3) acres if the cabinet determines the waiver will best serve the public interest, in which case the agreed order shall note the waiver determination;

(d) The applicant's agreement to complete remediation on the agreed schedule in compliance with the approved corrective action plan;

(e) A requirement that records related to the site's remediation be retained and provided to the cabinet on request; and

(f) Any other provisions the parties agree are necessary to protect human health and the environment, or to effectuate the purposes of Sections 1 to 11 of this Act.

(3) If the applicant and the cabinet are unable to negotiate an agreement in good faith within a reasonable time after negotiations have commenced, either party may withdraw from further negotiations.

SECTION 6. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon execution of an agreed order, the applicant shall submit to the cabinet within the agreed timeframe a site characterization report and a corrective action plan.

(2) The corrective action plan for properties involving hazardous substances over which the Department for Public Health has regulatory authority shall, at the time of submittal to the cabinet, also be submitted to the commissioner of the Department for Public Health.

(3) A corrective action plan shall comply with KRS 224.01-400, 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated under these statutes, and shall include:

(a) Detailed documentation of the characterization conducted by the applicant to determine the nature and extent of the release or threatened release as required under KRS 224.01-400 and 224.01-405 and a description of any remediation performed on the site;

(b) A description of any corrective action and additional characterization proposed to complete the remediation in accordance with KRS 224.01-400 and 224.01-405, together with a proposed schedule for implementation;

(c) Descriptions of sampling and analysis methods, techniques, and results, and quality assurance methods and controls used or proposed;

(d) A description of measures to protect human health and safety during the remediation;

(e) A plan of action to inform the public about the remediation and redevelopment of the property and to provide for meaningful public comment;

(f) Identification of any limitations on land use or activity proposed for the site; and

(g) Identification of any petroleum storage tanks on the site and an outline of how the applicant intends to comply with Subchapter 60 of KRS Chapter 224 and 401 KAR Chapter 42.

SECTION 7. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) working days of receipt of a corrective action plan, the cabinet shall:

(a) Review and evaluate the characterization and the corrective action plan for compliance with the agreed order, KRS 224.01-400, 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated pursuant thereto, and if necessary, inspect the property and any relevant conditions in the area surrounding the property; and

(b) Approve or deny the corrective action plan.

(2) If the cabinet determines from the characterization that the site has a hazard ranking (Mitre Model Ranking) of more than fifteen (15) or has a completed pathway of exposure, the cabinet shall have one hundred twenty (120) working days to approve or deny the corrective action plan.

(3) The cabinet may request an applicant to submit additional or corrected information during the applicable evaluation period. If the cabinet makes a request, the applicant may:

(a) Comply with the request by notifying the cabinet in writing and submitting the additional or corrected information within thirty (30) days after receiving the cabinet's request. From the date of the request by the cabinet until the additional or corrected information is submitted to the cabinet, the applicable evaluation period shall be suspended; or

(b) Request a final determination in accordance with KRS 224.01-400(22) within thirty (30) days after receiving the cabinet's request.

(4) If the cabinet approves a corrective action plan, the cabinet shall, in writing, notify the applicant and commenters.

(5) The cabinet shall deny a corrective action plan for failure to comply with KRS 224.01-400, 224.01-405, Sections 1 to 11 of this Act, or any administrative regulations promulgated under these statutes. The cabinet may deny a corrective action plan for failure to respond to its request for information. If the cabinet denies a corrective action plan, it shall notify, in writing, the applicant and commenters, specifying the reasons for the denial. The cabinet shall also inform the applicant of the right to appeal the decision in accordance with KRS 224.10-420(2). Within thirty (30) days of receipt of the notice of denial, the applicant shall inform the cabinet if a revised corrective action plan or corrective action completion report will be submitted.

SECTION 8. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) On or before the date that an applicant submits a corrective action plan to the cabinet, the applicant shall:

(a) Notify local government units affected by the remediation of the provisions of the corrective action plan;

(b) Provide a copy of the corrective action plan to at least one (1) public library in any county affected by the remediation;

(c) Submit for publication in a newspaper of general circulation in the county or counties where the property is located, a notice requesting public comment on the corrective action plan, and submit to the cabinet a copy of the notice as published, within ten (10) days of its publication; and

(d) Post a sign on the property stating that the site is undergoing remediation and providing information on where and when the corrective action plan is available for public review and comment.

(2) A comment period of at least thirty (30) days shall follow publication of the notice. During the comment period, any person may submit written comments to the cabinet concerning the corrective action plan and may request a public hearing. The cabinet may hold a public hearing if the request is made.

(3) The cabinet may hold a public hearing in any geographical area affected by the remediation on the question of whether to approve or deny the corrective action plan.

(4) The cabinet shall consider all written comments and public testimony prior to taking any action.

SECTION 9. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon full performance of an approved corrective action plan, the applicant shall submit for the cabinet's review, by the deadline agreed upon by the parties, a corrective action completion report, and shall certify therein that the applicant has successfully completed remediation in compliance with the approved corrective action plan.

(2) The cabinet shall review the corrective action completion report in the same manner as it reviewed the corrective action plan.

(3) The cabinet may conduct its own investigation, including but not limited to its own characterization to verify that remediation has been completed in compliance with the approved corrective action plan. The reasonable actual and necessary costs of such verification shall be considered oversight costs reimbursable under Section 5(2)(c) of this Act. Any confirmatory sampling by the cabinet shall be completed within the deadline agreed by the parties.

(4) If the cabinet determines that no further remediation is required under the approved corrective action plan, and upon the applicant's payment of the cabinet's costs for review and oversight of the remediation, the cabinet shall issue the applicant a covenant not to sue.

(5) The covenant not to sue shall preclude the cabinet's prosecution of civil or administrative enforcement action against the applicant for civil liability with respect to the releases identified in the corrective action plan, including injunctive relief, lien assertion, reimbursement of costs, or penalties for failure to perform remediation, arising pursuant to KRS 224.01-400, 224.01-405, any administrative regulations promulgated under these statutes, KRS 224.99-010, or the federal Comprehensive Environmental Response Compensation and Liability Act.

(6) The covenant not to sue shall be in recordable form, and shall be recorded by the applicant, along with all deed restrictions and institutional controls approved by the Cabinet, among the real estate records in the office of the county clerk where the property is located, within thirty (30) days of issuance by the cabinet. The covenant shall not be effective until it is recorded and a certified copy of the record instrument is delivered to the cabinet.

(7) The covenant not to sue shall not apply to:

(a) Releases other than those expressly identified in the corrective action plan;

(b) The applicant's failure to comply with a requirement of Sections 1 to 11 of this Act, the agreed order, the approved corrective action plan, or the approved corrective action completion report, including any required land use restrictions and engineering or institutional controls;

(c) The applicant's exacerbation of the releases identified in the corrective action plan; and

(d) Criminal liability.

(8) The cabinet may require additional remediation by administrative order, notwithstanding the issuance of a covenant not to sue, if the cabinet demonstrates that:

(a) The cabinet's approval of the corrective action plan or corrective action completion report was based on or resulted from misrepresentations or intentional omissions by the applicant; or

(b) Conditions exist at the site that were not known to the cabinet when the cabinet approved the corrective action plan or the corrective action completion report, provided those conditions prevent the remediation from being protective of human health and the environment. Such conditions may include, but are not limited to, the development of scientific knowledge, as reflected in published generally-accepted and peer-reviewed health standards, demonstrating that residual contamination in levels previously approved by the cabinet now constitutes a serious danger to human health and the environment.

SECTION 10. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The following actions of the cabinet shall be considered final determinations that may be appealed in accordance with KRS 224.10-420(2):

(1) Denial of an application to participate in the voluntary environmental remediation program;

(2) Cabinet withdrawal from negotiations with an applicant for an agreed order;

(3) Denial or approval of a corrective action plan; and

(4) Issuance or denial of a covenant not to sue.

SECTION 11. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The numerical values contained in the document titled "Region 9 Preliminary Remediation Goals," published by the United States Environmental Protection Agency's Region 9, are hereby established as screening levels and shall be used by the cabinet to evaluate, in conformance with the guidance set out in the Region 9 Preliminary Remediation Goals, whether remediation is necessary on any site. It is not the intent of this section to establish these levels as the cleanup standards for individual contaminants that may be present at any site.

SECTION 12. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 1 to 11 of this Act shall be considered approved costs for the purposes of KRS 154.26-010 to 154.26-100.

SECTION 13. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 1 to 11 of this Act shall be considered approved costs for the purposes of KRS 154.28-010 to 154.28-100.

SECTION 14. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

Remediation of a property owned by a governmental agency in accordance with Sections 1 to 11 of this Act shall qualify as an infrastructure project for the purposes of this chapter.

SECTION 15. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Economic Development Finance Authority shall review the economic development financing mechanism known as "tax increment financing." The review shall determine the appropriate application of tax increment financing for the state and its political subdivisions, provide guidance on developing proposed legislation to apply tax increment financing in Kentucky, and focus on the use of tax increment financing for the redevelopment of sites affected by a release of hazardous substances, pollutants, or contaminants or a release of petroleum.

(2) The authority shall present the results of the review to the Interim Joint Committee on Local Government no later than March 31, 2001.

SECTION 16. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall implement Sections 1 to 11 of this Act from and after the effective date of this Act. The cabinet shall publish

forms by October 31, 2000, and may promulgate necessary administrative regulations, to implement Sections 1 to 11 of this Act.

Section 17. This Act may be cited as the Voluntary Environmental Remediation Act.

SB 409, AN ACT relating to infrastructure projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the work of the Water Resource Development Commission, created by executive order of the Governor and confirmed by the General Assembly in KRS 147A.011, established the necessity of encouraging consolidation and partnerships among governmental agencies, and private parties when appropriate, with the goal of making potable water and wastewater treatment available to all Kentuckians through the maximization of financial resources and the conservation of natural resources. Based on these findings, the General Assembly declares that the Kentucky Infrastructure Authority shall implement a program for the provision of water services as authorized in the budget and directed by the General Assembly.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

Within twelve (12) months of the effective date of this Act, each area development district shall establish 2020 water management areas. The entire area within the area development district shall be included in a 2020 water management area. The area development district may determine the boundaries of water management areas by considering geographical or topographical conditions and the potential integration of existing water systems. Where water management areas may lie within more than one (1) area development district, the area development districts shall share planning and plan implementation responsibilities. The area development districts shall develop maps of uniform scale to show, accurately and clearly, the boundaries of the 2020 water management areas.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) 2020 water management planning councils shall be established for each county. Two (2) or more counties may form a multicounty 2020 water management planning council. The planning councils shall, as a minimum, be comprised of the following:

(a) Each county judge-executive or mayor of an urban-county government, or his or her authorized representative;

(b) One (1) representative of each water utility that provides water to persons in the county;

(c) One (1) representative of each water supply distributor serving persons in the county, unless the water supply distributor chooses to be represented by another member of the planning council;

(d) One (1) representative of public water suppliers, appointed by the county judge-executive or mayor of an urban-county government, or one (1) representative from a local health department in the county;

(e) One (1) representative of each first, second, or third class city that is not a water supplier or distributor, unless that city chooses to be represented by another member of the planning council;

(f) One (1) representative of the fourth class cities that are not water suppliers or water supply distributors, appointed by the county judge/executive; and

(g) One (1) representative of the fifth and sixth class cities, that are not water suppliers or distributors, appointed by the county judge/executive.

(2) If, after the 2020 water management planning council appointments have been made, a county judge/executive or mayor of an urban-county government determines that any areas of the county or urban county government remain unrepresented on the planning council, the county judge/executive or mayor of the urban-county government may appoint an individual to represent that area.

(3) The county judge/executive or mayor of an urban-county government or the county judge/executive or the mayor's designated representative shall serve as the chair of the 2020 water management planning council of which either the county judge/executive or the mayor is a member.

(4) Members of the 2020 water management planning councils shall serve without pay, but may be reimbursed for reasonable expenses incurred to carry out the work of the councils.

(5) The area development districts shall develop a forum for the chairpersons of the 2020 water management planning councils or multicounty planning councils to meet on at least a quarterly basis for the purpose of developing regional service strategies consistent with the findings and purpose set out in Section 1 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) Each 2020 water management planning council shall by July 1, 2001, develop a plan consistent with the county long-range water supply plan developed under KRS 151.114 and the water supply planning process set out in KRS Chapter 151 and administrative regulations of the cabinet. The plan shall include a water needs forecast for the county for dates five (5), ten (10), fifteen (15), and twenty (20) years after the year 2000. The water needs forecast shall include a

strategy for delivering potable water as needed into the underserved and unserved areas of the county through partnerships between public and private water utilities.

(2) The 2020 water management planning councils or multicounty planning councils shall assume the role and function of the planning units established to implement the water supply planning process set out in KRS 151.114 and administrative regulations of the cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The 2020 water management planning councils, or multicounty planning councils may employ a water service coordinator. Planning councils may jointly employ a water service coordinator. The water service coordinator shall assume the role and function of the county long-range planning representative appointed under KRS 151.114 and the water supply planning process set out in KRS Chapter 151 and administrative regulations of the cabinet. In addition, water service coordinators shall assist the 2020 water planning councils or multicounty planning councils in developing the plans required under Section 4 of this Act.

(2) The Kentucky Infrastructure Authority may establish by administrative regulations a program to supplement up to one-half (1/2) of the funding for a multicounty planning council water service coordinator for a period of three (3) years from the effective date of this Act. There shall be no more than one (1) position funded per area development district.

(3) All state agencies shall cooperate with and assist the 2020 water management planning councils as appropriate to accomplish the purposes set out in Section 1 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) After July 1, 2001, and annually thereafter, each area development district shall review and prioritize the planning councils' plans for underserved and unserved areas within the 2020 water management area for that district. The review and prioritization shall be conducted with the assistance and input of the water management councils for the counties or multicounty areas within a 2020 water management area. The prioritization shall be for the purpose of qualifying for financial assistance from the 2020 water service account of the Kentucky Infrastructure Authority.

(2) Factors to be considered in prioritizing the plans for underserved and unserved areas within a 2020 water management area include:

- *(a) The current and potential customer base that would benefit from water service;*
- *(b) The adequacy, cost-effectiveness, and dependability of water sources, water treatment capacity, and distribution lines that may be used to provide water service; and*
- *(c) The potential to eliminate or prevent duplication of water distribution lines and facilities that may be used to provide the service.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

A 2020 water service account is established within the infrastructure revolving fund. The purpose of the account shall be to assist in making potable water available to all Kentuckians by the year 2020. The authority shall manage the account as funding is authorized by the General Assembly and in a manner to achieve the purposes set out in Section 1 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall require the following as conditions for receiving assistance from any fund administered by the authority for infrastructure projects related to water service:

- *(a) Establishment and use of a financial accounting system that accounts for the operations of water treatment and distribution separately from all other operations of the applicant;*
- *(b) Establishment of service rates based upon the cost of providing the service; and*
- *(c) An agreement that the authority may require an audit to be conducted of the applicant at least once every two (2) years.*

(2) The authority shall require all applicants within a class to use the same accounting system. The authority may accept present accounting systems in use and applied uniformly to all applicants within a class, for example, the uniform system of accounts established by the National Association of Regulatory Utility Commissioners.

(3) The authority shall assist water providers to establish accounting systems that meet the requirements of this section. The authority may provide assistance by paying for third party private contractors or assistance from the Kentucky Auditor of Public Accounts.

(4) The authority shall pay for costs related to establishing a new uniform accounting system for the use of governmental agencies that merge or consolidate their water services if:

- *(a) The merging or consolidating entities use different accounting systems;*
- *(b) The merger or consolidation is consistent with a 2020 water management planning council plan as reviewed and prioritized under Section 6 of this Act; and*
- *(c) At least one (1) governmental agency water system is a partner in the merger or consolidation.*

(5) The authority shall fund the requirements of this section from the 2020 water service account.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish a program to assist governmental agencies in detecting water loss from distribution lines. The program may include contracting with third parties to conduct water loss audits and leak detection. The program shall include giving low interest loans, on a priority basis established by the authority consistent with the findings and purposes set out in Section 1 of this Act, for the repair or replacement of distribution facilities, deemed reasonable by the authority, undertaken as a result of the water loss audit.

(2) The authority may forgive any amount of a distribution facility repair or replacement loan remaining unpaid if:

(a) Within five (5) years of entering into the loan agreement the governmental agency merges with or consolidates with at least one (1) other public or private water supplier; and

(b) The merger or consolidation is consistent with a 2020 water management planning council plan as reviewed and prioritized under Section 6 of this Act.

(3) The authority shall fund the requirements of this section from the 2020 water service account.

Section 10. KRS 106.200 is amended to read as follows:

No city of the second, third, fourth, fifth or sixth class which owns a waterworks system shall sell, convey, rent, or lease ***the***[~~said~~] system without the assent of a majority of ***the legislative body for the city***[~~those voting at an election held for that purpose after notice of the election has been published pursuant to KRS Chapter 424~~]. This section shall not apply to the issuance of revenue bonds provided for under the provisions of this chapter.

Section 11. KRS 96.540 is amended to read as follows:

(1) Except as provided in KRS 96.171 to 96.188, inclusive, and in KRS 96.5405, no city of the second, third, fourth, fifth, or sixth class that owns a[~~ waterworks system or~~] lighting system by gas or electricity, shall sell, convey, lease, or encumber the system or the income therefrom without the assent of a majority of the total number of legal voters of the city voting at an election held for that purpose, after notice of the election has been published pursuant to KRS Chapter 424.

(2) In the case of a city of the fourth, fifth, or sixth class, the election shall be ordered and the election officers shall be selected by the city legislative body, the city clerk shall prepare the question for presentation to the voters, and a tabulation of the vote shall be done by the city legislative body in the presence of the mayor; in all other respects the election shall be conducted under the regular election laws.

(3) ***Except as provided in KRS 96.171 to 96.188, inclusive, and in KRS 96.5405, no city of the second, third, fourth, fifth, or sixth class that owns a waterworks system, shall sell, convey, lease, or encumber the system or the income therefrom without the assent of a majority of the legislative body for the city.***

(4) This section shall not apply to the issuance of revenue bonds under the provisions of KRS 96.350 to 96.520.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish an incentive program to encourage the merger and consolidation of water systems. The incentives may be used for governmental agency-owned systems and private systems. This program shall be funded from the 2020 water service account.

(2) The incentive program shall target water systems that have high debt, inadequate operational and maintenance resources, high maintenance costs, old and inadequately maintained treatment works, a history of violations of the Division of Water laws and administrative regulations as a result of inadequate operational and maintenance resources, or insufficient financial resources to extend system service to unserved or underserved areas.

(3) In developing the incentives to encourage governmental agencies to merge or consolidate with target systems, the authority shall give the highest funding priority to projects that are consistent with a 2020 water management planning council plan as reviewed and prioritized under Section 6 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall develop an incentive program to encourage new infrastructure projects to provide service to unserved areas and improve service to underserved areas of the state. The incentives may be used for governmental agency owned systems and private systems. This program shall be funded from the 2020 water service account.

(2) The incentives shall be developed to give the highest funding priority to projects that are consistent with a 2020 water management planning council plan as reviewed and prioritized under Section 6 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The authority may enter into a contract with the Kentucky Geological Survey for the purpose of continuing and expanding the identification and study of the water resource potential of underground coal mines and high yield water wells. The authority shall fund the study from the 2020 water service account.

Section 15. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.

(2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.

(5) "Authority revenues" means the totality of all:

(a) Service charges;

(b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, 224A.112, and 224A.270, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and

(g) Payments under agreements with any agencies of the state and federal government.

(6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.

(7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.

(8) "Construction" means and includes, but is not limited to:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure or solid waste projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and

(c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects.

(9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the natural resources cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.

(11) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.

(12) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and

management plan under Section 320 of the federal act.

(13) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure or solid waste projects. This definition shall specifically apply, but not by way of limitation, to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.

(14) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.

(15) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency ***or an investor-owned water utility*** which is approved by the authority and, if required, by the natural resources cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; gas or electric utility; or any other public utility or public service project~~[which the authority finds would enhance economic development opportunities in a governmental agency]~~.

(16) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(17) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(18) "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency.

(19) "Natural resources cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(20) "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes.

(21) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(22) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes.

(23) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the natural resources cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund, or the list of infrastructure projects which the ***authority***~~[Department for Local Government]~~ has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. ***The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district.***

(24) "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency.

(25) "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.

(26) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet.

(27) "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.

(29) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(30) "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).

(31) "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.

(32) "Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section.

(33) "State" means the Commonwealth of Kentucky.

(34) "System" means the system owned and operated by a governmental agency with respect to solid waste projects, treatment works, or infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority.

(35) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act.

(36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120.

(37) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

(38) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(39) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters.

(41) "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky.

Section 16. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky Infrastructure Authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the state. All powers, duties, and obligations of the Kentucky Pollution Abatement and Water Resources Finance Authority shall be transferred March 31, 1988, to the Kentucky Infrastructure Authority. The affairs of the authority shall be managed and carried out by a board consisting of ***seven (7)***[~~eight (8)~~] members. The secretaries of the[~~ Economic Development,~~] Finance and Administration[~~,~~] and Natural Resources and Environmental Protection Cabinets, [~~the vice chairman of the Kentucky Economic Development Partnership or the vice chairman's designee selected from the membership of the Kentucky Economic Development Partnership or the Kentucky Economic Development Finance Authority,~~] and the commissioner of the Department for Local Government shall serve as ex officio members of the authority. ***The secretaries and the***

commissioner may designate alternates. On or before August 1, ***2000***[~~1992~~], the Governor shall additionally appoint ***four (4)***[~~three (3)~~] at large members. ***One (1) member shall be selected from a list of three (3) nominees submitted by the Kentucky Association of Counties, one (1) member selected from a list of three (3) nominees submitted by the Kentucky League of Cities, one (1) member selected from a list of three (3) nominees submitted by the Kentucky Rural Water Association, and one (1) member selected from a list of three (3) nominees submitted by the Kentucky section of the American Water Works Association. The at-large members***[~~who~~] shall serve as follows: ***two (2)***[~~one (1)~~] shall serve a term ending June 30, ***2004***[~~1996~~]; one (1) shall serve a term ending June 30, ***2003***[~~1995~~]; and one (1) shall serve a term ending June 30, ***2002***[~~1994~~]. As the terms of the at large members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed. The members shall constitute the Kentucky Infrastructure Authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the state.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Five (5) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened.[~~ The secretary of the Finance and Administration Cabinet shall serve as chairperson.~~] The members of the authority shall choose from their ranks a ***chair and a*** vice ***chair***[~~chairman~~]. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive compensation as may be determined by the authority.

(4) The authority shall, for administrative purposes, be attached to the ***Office of the Governor***[~~Finance and Administration Cabinet~~], and shall establish and maintain offices in premises which shall be provided for that purpose by the Finance and Administration Cabinet; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 17. KRS 224A.070 is amended to read as follows:

The authority may carry out and perform the following essential governmental functions of statewide import and concern:

(1) To promulgate administrative regulations and adopt bylaws for the regulation of its affairs and the conduct of its business, which shall define with specificity conditions precedent under which applications for loans or grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which the authority may act, together with other employees***, including for example only, engineers, accountants, and attorneys,*** necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service and sewer service in the state, such tax to be equal to not more than two percent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for loans or grants;

(7) To lease an infrastructure project or make loans or grants to or purchase or refinance obligations of any governmental agency for the purpose of assisting the governmental agency in the construction of an infrastructure project. A lease, loan, or grant shall be in accordance with the terms and conditions of an assistance agreement by and between the authority and the governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, the real property or rights therein, including rights-of-way, easements and licenses, and the personal property reasonably deemed necessary to effectuate the development, implementation, financing, and construction or acquisition of any infrastructure project, and to make the properties available to a governmental agency in connection with an infrastructure project;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of the assistance agreements, and to use and employ the service charges in accordance with the provisions of this chapter, the service charges to constitute authority revenues;

(10) To enter into and enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer

infrastructure projects financed by leases, loans or grants which have been undertaken by governmental agencies;

(11) To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this chapter;

(12) To bid at a competitive public sale of obligations of a governmental agency or negotiate the purchase or sale of obligations of a governmental agency, notwithstanding any other law to the contrary;

(13) To borrow money and issue negotiable bonds and notes pursuant to this chapter;

(14) To lend money to governmental agencies or to advance moneys from the infrastructure revolving fund to the federally assisted wastewater revolving fund in order to match federal moneys that may become available;

(15) To contract with the federal government as to any infrastructure project;

(16) To participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction or repair of any infrastructure project; and

(17) To have, possess, and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 18. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with infrastructure projects. Each assistance agreement shall be subject to review by the Capital Projects and Bond Oversight Committee of the Legislative Research Commission ***and***~~[before approval by the Finance and Administration Cabinet and the Cabinet for Economic Development,]~~ may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

(1) An estimate of the reasonable cost of the infrastructure project, as determined by the authority;

(2) The amount of the total rentals under any lease of an infrastructure project, loans or grants to be made to the governmental agency, financing payments or obligations of the governmental agency to be purchased by the authority;

(3) The time or times at which the rentals, loans or grants, financing payments or the purchase price of a governmental agency shall become payable by or to the governmental agency;

(4) The specific purpose or purposes for which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant made pursuant to the assistance agreement shall be expended;

(5) The conditions under which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant may be expended on account of the infrastructure project by the governmental agency;

(6) An agreement by the governmental agency:

  (a) To proceed expeditiously with and promptly complete the infrastructure project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;

  (b) To commence or cause to be commenced operation of the infrastructure project on completion of construction, and not to discontinue operations or dispose of such infrastructure project without the approval of the authority;

  (c) To operate and maintain or cause to be operated and maintained the infrastructure project in accordance with the applicable provisions of federal and state law;

  (d) To disclose fully to the authority all applications for or award of grants or loans for financial assistance, if any;

  (e) To provide for the payment of the governmental agency's share of the cost of the infrastructure project, if the entire infrastructure project is not financed by assistance from the authority and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;

(7) A provision that, if assistance which was not included in the calculation of the loan or grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the assistance from the authority shall be recalculated with the inclusion of the additional assistance, and the governmental agency shall pay to the authority the amount, if any, by which the loan or grant actually made, exceeds the loan or grant as determined by the recalculation;

(8) The extent to which the assistance from the authority shall be repaid to the authority, which shall not be less than the sum of the following, except as provided under KRS 224A.111, 224A.112, 224A.270, and KRS 224A.1115:

  (a) The aggregate principal amount of the loan; and

  (b) Interest on the aggregate balance of the principal amount of the loan from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed one-quarter of one percent (1/4 of 1%), except as provided for in KRS 224A.111, 224A.112, 224A.270, and KRS 224A.1115;

(9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;

(10) The extent to which a service charge shall be imposed by the governmental agency. Any service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section; and

(11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the State Treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid, with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky, as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the applicable interest rate per annum, shall have been paid.

Section 19. KRS 224A.112 is amended to read as follows:

(1) The infrastructure revolving fund shall be established in the State Treasury and shall be administered by the authority.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies***, and investor-owned water systems as provided for in Sections 8, 9, 11, and 12 of this Act,*** for the construction or acquisition of infrastructure projects. ***The fund shall contain an account called the 2020 water service account. The 2020 water service account shall be managed by the authority as set out in this chapter***~~[when a governmental agency is unable to finance the entire infrastructure project for which it is seeking moneys from its own resources, through commercial credit at reasonable rates and under reasonable terms or through other public grant or loan programs, including the federally assisted wastewater revolving fund]~~.

(3) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;

(b) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates;

(c) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or other agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund;

(d) Providing moneys with which to carry out the requirements of assistance agreements; and

(e) Making grants as funds specifically appropriated for grants or proceeds from the sale of the authority's revenue bonds are available~~[when the authority finds that both a hardship and an extreme health hazard exist]~~.

(4) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.

(5) The authority may provide financial assistance from the fund to supplement assistance provided from the federally assisted wastewater revolving fund as created in KRS 224A.111~~[or for any infrastructure projects on the prioritization schedule prepared by the Department for Local Government]~~.

(6) The ***authority***~~[Department for Local Government]~~ shall advise governmental agencies of the availability of the infrastructure revolving fund and how moneys may be obtained from the fund.~~[In establishing its prioritization schedule, the Department for Local Government shall consult the Cabinet for Economic Development regarding economic development project criteria, shall give funding consideration to economic development projects recommended by the Cabinet for Economic Development, and shall consider the following factors:~~

~~(a) Local employment;~~

~~(b) The relationship of the infrastructure project to the governmental agency's capital investment plan;~~

~~(c) The relationship of the infrastructure project to the governmental agency's economic development;~~

~~(d) The reasonableness of the proposed costs;~~

~~(e) The probable effectiveness of the infrastructure project as proposed; and~~

~~(f) Any other criteria that the Department for Local Government considers advisable.]~~

(7) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section. ***All state agencies shall cooperate with the authority and share information with the authority as appropriate to accomplish the purposes set out in Section 1 of this Act.***

Section 20. KRS 224A.113 is amended to read as follows:

The authority~~[, the Natural Resources Cabinet or the Department for Local Government]~~ may promulgate administrative regulations to implement KRS 224A.111, 224A.1115, and 224A.112.

Section 21. The following KRS section is repealed:

224A.055 Funding consideration of infrastructure projects.

The House Committee Substitute No. 1 to **SB 409** is as follows:

SB 409, AN ACT relating to infrastructure projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that the work of the Water Resource Development Commission, created by executive order of the Governor and confirmed by the General Assembly in KRS 147A.011, established the necessity of encouraging regionalization, consolidation, and partnerships among governmental agencies, and private parties when appropriate, with the goal of making potable water and wastewater treatment available to all Kentuckians through the maximization of financial resources and the conservation of natural resources of the Commonwealth. Based on these findings, the General Assembly declares that the Kentucky Infrastructure Authority shall implement a program for the provision of water services as authorized in the budget and directed by the General Assembly.

(2) On the effective date of this Act, responsibility for the management and operation of the Water Resource Information System shall be transferred from the Water Resource Development Commission to the authority. The authority shall maintain and, at least annually, update the information contained in this system to ensure its accuracy.

(3) The authority may request all branches of state and local government, including special districts and water districts, to provide information relating to the status of existing plants, the financial condition of existing systems, and the existing regulatory authority held by agencies of government regarding the issue of water resource development and management. All branches of state and local government shall, to the extent reasonable and appropriate, comply with such requests for information.

(4) The authority shall promulgate administrative regulations that require a water supply and distribution system receiving or seeking funding to provide current information regarding the financial, managerial, and technical aspects of its system and, thereafter, to furnish updates to the information so provided.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

Within twelve (12) months of the effective date of this Act, each area development district shall establish 2020 water management areas. The entire area within the area development district shall be included in one (1) or more 2020 water management areas. The area development district may determine the boundaries of water management areas by considering geographical or topographical conditions and the potential integration of existing water systems. Where water management areas may lie within more than one (1) area development district, the area development districts shall share planning and plan implementation responsibilities. The area development districts shall develop maps of uniform scale to show, accurately and clearly, the boundaries of the 2020 water management areas.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) 2020 water management planning councils shall be established for each county with the assistance of the appropriate area development district. Two (2) or more counties may form a multicounty 2020 water management planning council. The planning councils shall, as a minimum, be comprised of the following:

(a) Each county judge-executive or mayor of an urban-county government, or his or her authorized representative;

(b) One (1) representative selected by each community public water system, as defined in 401 KAR 8:010 sec. 1(71)(a), that provides water to persons in the county;

(c) One (1) representative selected by a local health department in the county; and

(d) One (1) representative selected by each first, second, third, or fourth class city that is not a water supplier or distributor, unless that city chooses to be represented by another member of the planning council.

(2) If, after the 2020 water management planning council appointments have been made, a county judge/executive or mayor of an urban-county government determines that any areas of the county or urban county government remain unrepresented on the planning council, the county judge/executive or mayor of the urban-county government may appoint an individual to represent that area.

(3) The county judge/executive or mayor of an urban-county government or the county judge/executive or the mayor's designated representative shall serve as the chair of the 2020 water management planning council of which either the county judge/executive or the mayor is a member.

(4) Members of the 2020 water management planning councils shall serve without pay, but may be reimbursed by counties or appointing agencies for reasonable expenses incurred to carry out the work of the councils.

(5) The area development districts shall develop a forum for the chairpersons of the 2020 water management planning councils or multicounty planning councils to meet on at least a quarterly basis for the purpose of developing regional service strategies consistent with the findings and purpose set out in Section 1 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) Each 2020 water management planning council shall by July 1, 2001, develop a plan consistent with the county long-range water supply plan developed under KRS 151.114 and the water supply planning process set out in KRS Chapter

151 and administrative regulations of the cabinet and the purposes set out in Section 1 of this Act. The plan shall include a water needs forecast for the county for dates five (5), ten (10), fifteen (15), and twenty (20) years after the year 2000. The plan shall include a strategy for delivering potable water as needed into the underserved and unserved areas of the county, and shall encourage the merger and consolidation of water systems. The authority may disapprove and direct redevelopment of a plan under this subsection for inconsistencies with the purposes set out in Section 1 of this Act.

(2) The 2020 water management planning councils or multicounty planning councils shall assume the role and function of the planning units established to implement the water supply planning process set out in KRS 151.114 and administrative regulations of the cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The 2020 water management planning councils, or multicounty planning councils may employ a water service coordinator. Planning councils may jointly employ a water service coordinator. The water service coordinator shall assume the role and function of the county long-range planning representative appointed under KRS 151.114 and the water supply planning process set out in KRS Chapter 151 and administrative regulations of the cabinet. In addition, water service coordinators shall assist the 2020 water planning councils or multicounty planning councils in developing the plans required under Section 4 of this Act.

(2) The Kentucky Infrastructure Authority may establish by administrative regulations a program to provide or supplement funding for a multicounty planning council water service coordinator for a period of three (3) years from the effective date of this Act. There shall be no more than one (1) position funded per area development district.

(3) All state agencies shall cooperate with and assist the 2020 water management planning councils as appropriate to accomplish the purposes set out in Section 1 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) After July 1, 2001, and annually thereafter, each area development district shall review and prioritize the planning councils' plans for underserved and unserved areas within the 2020 water management area for that district. The review and prioritization shall be conducted with the assistance and input of the authority and the water management councils for the counties or multicounty areas within a 2020 water management area. These prioritization plans shall be submitted to the authority for review and approval. The authority may suggest changes necessary for the purpose of qualifying for financial assistance from the 2020 water service account of the Kentucky Infrastructure Authority.

(2) Factors to be considered in prioritizing the plans for underserved and unserved areas within a 2020 water management area include:

(a) The current and potential customer base that would benefit from water service;

(b) The adequacy, cost-effectiveness, and dependability of water sources, water treatment capacity, and distribution lines that may be used to provide water service; and

(c) The potential to eliminate or prevent duplication of water distribution lines and facilities that may be used to provide the service.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

A 2020 water service account is established within the infrastructure revolving fund. The purpose of the account shall be to assist in making potable water available to all Kentuckians by the year 2020. The authority shall manage the account as funding is authorized by the General Assembly and in a manner to achieve the purposes set out in Section 1 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall require the following as conditions for receiving assistance from any fund administered by the authority for infrastructure projects related to water service:

(a) Establishment and use of a financial accounting system that accounts for the operations of water treatment and distribution separately from all other operations of the applicant;

(b) Establishment of service rates based upon the cost of providing the service; and

(c) An agreement that the authority may require an audit to be conducted of the applicant at least once every two (2) years.

(2) The authority shall require all applicants within a class to use the same accounting system. The authority may accept present accounting systems in use and applied uniformly to all applicants within a class, for example, the uniform system of accounts established by the National Association of Regulatory Utility Commissioners.

(3) The authority may assist water providers to establish accounting systems that meet the requirements of this section. The authority may provide assistance by paying for third party private contractors or assistance from the Kentucky Auditor of Public Accounts.

(4) The authority may pay for costs related to establishing a new uniform accounting system for the use of governmental agencies that merge or consolidate their water services if:

(a) The merging or consolidating entities use different accounting systems;

(b) The merger or consolidation is consistent with a 2020 water management planning council plan as reviewed and prioritized under Section 6 of this Act; and

(c) At least one (1) governmental agency water system is a partner in the merger or consolidation.

(5) The authority may fund the requirements of this section from the 2020 water service account.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish a program to assist governmental agencies in detecting water loss from distribution lines. The program may include contracting with third parties to conduct water loss audits and leak detection. The program may include giving low interest loans, on a priority basis established by the authority consistent with the findings and purposes set out in Section 1 of this Act, for the repair or replacement of distribution facilities, deemed reasonable by the authority, undertaken as a result of the water loss audit.

(2) The authority may forgive any amount of a distribution facility repair or replacement loan from the authority remaining unpaid if:

(a) Within five (5) years of entering into the loan agreement the governmental agency merges with or consolidates with at least one (1) other public or private water supplier; and

(b) The merger or consolidation is consistent with a 2020 water management planning council plan as reviewed and prioritized under Section 6 of this Act.

(3) The authority may fund the requirements of this section from the 2020 water service account.

Section 10. KRS 106.200 is amended to read as follows:

No city of the second, third, fourth, fifth or sixth class which owns a waterworks system shall sell, convey, rent***,*** or lease ***the***~~[said]~~ system without the assent of a majority of ***the legislative body for the city or of*** those voting at an election held for that purpose after notice of the election has been published pursuant to KRS Chapter 424. This section shall not apply to the issuance of revenue bonds provided for under the provisions of this chapter.

Section 11. KRS 96.540 is amended to read as follows:

(1) Except as provided in KRS 96.171 to 96.188, inclusive, and in KRS 96.5405, no city of the second, third, fourth, fifth, or sixth class that owns a~~[waterworks system or]~~ lighting system by gas or electricity, shall sell, convey, lease, or encumber the system or the income therefrom without the assent of a majority of the total number of legal voters of the city voting at an election held for that purpose, after notice of the election has been published pursuant to KRS Chapter 424.

(2) In the case of a city of the fourth, fifth, or sixth class, the election shall be ordered and the election officers shall be selected by the city legislative body, the city clerk shall prepare the question for presentation to the voters, and a tabulation of the vote shall be done by the city legislative body in the presence of the mayor; in all other respects the election shall be conducted under the regular election laws.

(3) ***Except as provided in KRS 96.171 to 96.188, inclusive, and in KRS 96.5405, no city of the second, third, fourth, fifth, or sixth class that owns a waterworks system, shall sell, convey, lease, or encumber the system or the income therefrom without the assent of a majority of the legislative body for the city or of a majority of the total number of legal voters of the city voting at an election held for that purpose, after notice of the election has been published pursuant to KRS Chapter 424.***

(4) This section shall not apply to the issuance of revenue bonds under the provisions of KRS 96.350 to 96.520.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish an incentive program that allocates funds from the 2020 water service account in a manner that encourages the regionalization, merger, and consolidation of water systems and elimination of structural and administrative duplication. The incentive funds may be used by government owned and private systems.

(2) The incentive program shall target water systems that have high debt, inadequate operational and maintenance resources, high maintenance costs, old and inadequately maintained treatment works, a history of violations of the Division of Water's statutes and administrative regulations due to inadequate operational and maintenance resources, or insufficient financial resources to extend system service to unserved or underserved areas.

(3) In developing the incentives to encourage governmental agencies to merge, regionalize, consolidate, and partner with target systems, the authority shall give the highest funding priority to those projects which have been identified in a 2020 water management planning council plan prioritized under Section 6 of this Act and meet the funding priorities established by the authority.

SECTION 13. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The authority shall develop an incentive program that allocates funds from the 2020 water service account to encourage new infrastructure projects to provide service to unserved areas and improve service to underserved areas of the state. The incentives may be used by government owned and private systems.

(2) The incentives shall be developed to give the highest funding priority to those projects that have been identified in a 2020 water management planning council plan prioritized under Section 6 of this Act and meet the funding priorities established by the authority.

Section 14. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.

(2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.

(5) "Authority revenues" means the totality of all:

(a) Service charges;

(b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, 224A.112, and 224A.270, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and

(g) Payments under agreements with any agencies of the state and federal government.

(6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.

(7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.

(8) "Construction" means and includes, but is not limited to:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure or solid waste projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and

(c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects.

(9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the natural resources cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.

(11) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying

out the purposes of the authority.

(12) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(13) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure or solid waste projects. This definition shall specifically apply, but not by way of limitation, to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.

(14) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.

(15) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency ***or an investor-owned water utility*** which is approved by the authority and, if required, by the natural resources cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; gas or electric utility; or any other public utility or public service project which the authority finds would ***assist in carrying out the purposes set out in Section 1 of this Act***~~[enhance economic development opportunities in a governmental agency]~~.

(16) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(17) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(18) "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency.

(19) "Natural resources cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(20) "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes.

(21) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(22) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes.

(23) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the natural resources cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund ***and the federally assisted drinking water revolving fund***, or the list of infrastructure projects which the ***authority***~~[Department for Local Government]~~ has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. ***The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district.***

(24) "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency.

(25) "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a

recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.

(26) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet.

(27) "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.

(29) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(30) "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).

(31) "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.

(32) "Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section.

(33) "State" means the Commonwealth of Kentucky.

(34) "System" means the system owned and operated by a governmental agency with respect to solid waste projects, treatment works, or infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority.

(35) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act.

(36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120.

(37) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

(38) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(39) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters.

(41) "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky.

Section 15. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky Infrastructure Authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the state. All powers, duties, and obligations of the Kentucky Pollution Abatement and Water Resources Finance Authority shall be transferred March 31,

1988, to the Kentucky Infrastructure Authority. The affairs of the authority shall be managed and carried out by a board consisting of ***nine (9)***~~[eight (8)]~~ members. The secretaries of the Economic Development, Finance and Administration~~[,]~~ and Natural Resources and Environmental Protection Cabinets, ***the executive director of the Public Service Commission***~~[the vice chairman of the Kentucky Economic Development Partnership or the vice chairman's designee selected from the membership of the Kentucky Economic Development Partnership or the Kentucky Economic Development Finance Authority,]~~ and the commissioner of the Department for Local Government shall serve as ex officio members of the authority. ***The secretaries and the commissioner may designate alternates.*** On or before August 1, ***2000***~~[1992]~~, the Governor shall additionally appoint ***five (5)***~~[three (3)]~~ at large members***. One (1) member shall be selected from a list of three (3) nominees submitted by the Kentucky Association of Counties, one (1) member selected from a list of three (3) nominees submitted by the Kentucky League of Cities, one (1) member selected from a list of three (3) nominees submitted by the Kentucky Rural Water Association, one (1) member representing for-profit private water companies, and one (1) member selected from a list of three (3) nominees submitted by the Kentucky section of the American Water Works Association. The at-large members***~~[who]~~ shall serve as follows: ***two (2)***~~[one (1)]~~ shall serve a term ending June 30, ***2004***~~[1996]~~; ***two (2)***~~[one (1)]~~ shall serve a term ending June 30, ***2003***~~[1995]~~; and one (1) shall serve a term ending June 30, ***2002***~~[1994]~~. As the terms of the at large members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed. The members shall constitute the Kentucky Infrastructure Authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the state.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Five (5) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened.~~[The secretary of the Finance and Administration Cabinet shall serve as chairperson.]~~ The members of the authority shall choose from their ranks a ***chair and a*** vice ***chair***~~[chairman]~~. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive compensation as may be determined by the authority.

(4) The authority shall, for administrative purposes, be attached to the ***Office of the Governor***~~[Finance and Administration Cabinet]~~, and shall establish and maintain offices in premises which shall be provided for that purpose by the Finance and Administration Cabinet; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 16. KRS 224A.070 is amended to read as follows:

The authority may carry out and perform the following essential governmental functions of statewide import and concern:

(1) To promulgate administrative regulations and adopt bylaws for the regulation of its affairs and the conduct of its business, which shall define with specificity conditions precedent under which applications for loans or grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which the authority may act, together with other employees***, including for example only, engineers, accountants, and attorneys,*** necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service and sewer service in the state, such tax to be equal to not more than two percent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for loans or grants;

(7) To lease an infrastructure project or make loans or grants to or purchase or refinance obligations of any governmental agency for the purpose of assisting the governmental agency in the construction of an infrastructure project. A lease, loan, or grant shall be in accordance with the terms and conditions of an assistance agreement by and between the authority and the governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, the real property or rights therein, including rights-of-way, easements and licenses, and the personal property reasonably deemed necessary to effectuate the development, implementation, financing, and construction or acquisition of any infrastructure project, and to make the

properties available to a governmental agency in connection with an infrastructure project;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of the assistance agreements, and to use and employ the service charges in accordance with the provisions of this chapter, the service charges to constitute authority revenues;

(10) To enter into and enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer infrastructure projects financed by leases, loans or grants which have been undertaken by governmental agencies;

(11) To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this chapter;

(12) To bid at a competitive public sale of obligations of a governmental agency or negotiate the purchase or sale of obligations of a governmental agency, notwithstanding any other law to the contrary;

(13) To borrow money and issue negotiable bonds and notes pursuant to this chapter;

(14) To lend money to governmental agencies or to advance moneys from the infrastructure revolving fund to the federally assisted wastewater revolving fund in order to match federal moneys that may become available;

(15) To contract with the federal government as to any infrastructure project;

(16) To participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction or repair of any infrastructure project; and

(17) To have, possess, and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 17. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with infrastructure projects. Each assistance agreement shall be subject to review by the Capital Projects and Bond Oversight Committee of the Legislative Research Commission ***and***[~~before approval by the Finance and Administration Cabinet and the Cabinet for Economic Development,~~] may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

(1) An estimate of the reasonable cost of the infrastructure project, as determined by the authority;

(2) The amount of the total rentals under any lease of an infrastructure project, loans or grants to be made to the governmental agency, financing payments or obligations of the governmental agency to be purchased by the authority;

(3) The time or times at which the rentals, loans or grants, financing payments or the purchase price of a governmental agency shall become payable by or to the governmental agency;

(4) The specific purpose or purposes for which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant made pursuant to the assistance agreement shall be expended;

(5) The conditions under which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant may be expended on account of the infrastructure project by the governmental agency;

(6) An agreement by the governmental agency:

(a) To proceed expeditiously with and promptly complete the infrastructure project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;

(b) To commence or cause to be commenced operation of the infrastructure project on completion of construction, and not to discontinue operations or dispose of such infrastructure project without the approval of the authority;

(c) To operate and maintain or cause to be operated and maintained the infrastructure project in accordance with the applicable provisions of federal and state law;

(d) To disclose fully to the authority all applications for or award of grants or loans for financial assistance, if any;

(e) To provide for the payment of the governmental agency's share of the cost of the infrastructure project, if the entire infrastructure project is not financed by assistance from the authority and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;

(7) A provision that, if assistance which was not included in the calculation of the loan or grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the assistance from the authority shall be recalculated with the inclusion of the additional assistance, and the governmental agency shall pay to the authority the amount, if any, by which the loan or grant actually made, exceeds the loan or grant as determined by the recalculation;

(8) The extent to which the assistance from the authority shall be repaid to the authority, which shall not be less than the sum of the following, except as provided under KRS 224A.111, 224A.112, 224A.270, and KRS 224A.1115:

(a) The aggregate principal amount of the loan; and

(b) Interest on the aggregate balance of the principal amount of the loan from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed one-quarter of one percent (1/4 of 1%), except as provided for in KRS 224A.111, 224A.112, 224A.270, and KRS 224A.1115;

(9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;

(10) The extent to which a service charge shall be imposed by the governmental agency. Any service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section; and

(11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the State Treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid, with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky, as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the applicable interest rate per annum, shall have been paid.

Section 18. KRS 224A.112 is amended to read as follows:

(1) The infrastructure revolving fund shall be established in the State Treasury and shall be administered by the authority.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies***, and investor-owned water systems as provided for in Sections 8, 9, 11, and 12 of this Act,*** for the construction or acquisition of infrastructure projects***. The fund shall contain an account called the 2020 water service account. The 2020 water service account shall be managed by the authority as set out in this chapter***~~[when a governmental agency is unable to finance the entire infrastructure project for which it is seeking moneys from its own resources, through commercial credit at reasonable rates and under reasonable terms or through other public grant or loan programs, including the federally assisted wastewater revolving fund]~~.

(3) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;

(b) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates;

(c) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or other agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund;

(d) Providing moneys with which to carry out the requirements of assistance agreements; and

(e) Making grants as funds specifically appropriated for grants or proceeds from the sale of the authority's revenue bonds are available~~[when the authority finds that both a hardship and an extreme health hazard exist]~~.

(4) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.

(5) The authority may provide financial assistance from the fund to supplement assistance provided from the federally assisted wastewater revolving fund as created in KRS 224A.111~~[or for any infrastructure projects on the prioritization schedule prepared by the Department for Local Government]~~.

(6) The ***authority***~~[Department for Local Government]~~ shall advise governmental agencies of the availability of the infrastructure revolving fund and how moneys may be obtained from the fund.~~[In establishing its prioritization schedule, the Department for Local Government shall consult the Cabinet for Economic Development regarding economic development project criteria, shall give funding consideration to economic development projects recommended by the Cabinet for Economic Development, and shall consider the following factors:~~

~~(a) Local employment;~~

~~(b) The relationship of the infrastructure project to the governmental agency's capital investment plan;~~

~~(c) The relationship of the infrastructure project to the governmental agency's economic development;~~

~~(d) The reasonableness of the proposed costs;~~

~~(e) The probable effectiveness of the infrastructure project as proposed; and~~

~~(f) Any other criteria that the Department for Local Government considers advisable.]~~

(7) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section. ***All state agencies shall cooperate with the authority and share information with the authority as appropriate to accomplish the purposes set out in Section 1 of this Act.***

Section 19. KRS 224A.113 is amended to read as follows:

The authority~~[, the Natural Resources Cabinet or the Department for Local Government]~~ may promulgate administrative regulations to implement KRS 224A.111, 224A.1115, and 224A.112.

Section 20. The following KRS section is repealed:

224A.055 Funding consideration of infrastructure projects.

HCR 154, A CONCURRENT RESOLUTION directing the study of gasification of coal for use as vehicle fuel.

WHEREAS, developing additional markets for coal and value-added products from coal will be an economic benefit to many thousands of Kentuckians; and

WHEREAS, reducing dependence on foreign oil for vehicle fuel is an important goal; and

WHEREAS, reducing emissions from the burning of vehicle fuels is necessary and desirable; and

WHEREAS, the Center for Applied Energy Research at the University of Kentucky is currently under contract with the U.S. Department of Energy to study Fischer Tropsch diesel, an alternative diesel fuel derived from coal; and

WHEREAS, vehicle fuels derived from coal can be substituted for a variety of other fuel types without modification of the engines;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly requests that the Interim Joint Committee on Agriculture and Natural Resources study, during the 2000-2001 interim, the feasibility and uses of coal gasification products as a vehicle fuel, and report its findings to the Legislative Research Commission by October 1, 2001.

Section 2. Aspects to investigate should include any vehicle emission benefits, adaptability to gasoline and diesel engines, cost and private industry interest in locating a gasification plant in the Commonwealth, adaptability of the gasification plant currently under construction for service as a fuel source for vehicles as well as electrical generation, and drawbacks or barriers to meaningful adoption of such fuels for vehicle use.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Health and Welfare reported **SB 335** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 335, AN ACT relating to certified surgical assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Abortion facility" means any place in which an abortion is performed;

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;

(3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;

(4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;

(5) "Cabinet" means the Cabinet for Health Services;

(6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

  (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

  (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;

(7) "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

(8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;

(9) ***"Certified surgical assistant" means a certified surgical assistant or certified first assistant who is certified by the National Surgical Assistant Association on the Certification of Surgical Assistants, the Liaison Council on Certification of Surgical Technologists, or the American Board of Surgical Assistants. The certified surgical assistant is an unlicensed health-care provider who is directly accountable to a physician licensed under KRS Chapter 311 or, in the absence of a physician, to a registered nurse licensed under KRS Chapter 314;***

(10) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;

(11)[~~(10)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;

(12)[~~(11)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;

(13)[~~(12)~~] ***"Intraoperative surgical care" includes the practice of surgical assisting in which the certified surgical assistant is working under the direction of the operating physician as a first or second assist, and which may include the following procedures:***

(a) Positioning the patient;

(b) Preparing and draping the patient for the operative procedure;

(c) Observing the operative site during the operative procedure;

(d) Providing the best possible exposure of the anatomy incident to the operative procedure;

(e) Assisting in closure of incisions and wound dressings;

(f) Performing any task, within the role of an unlicensed assistive person, required by the operating physician incident to the particular procedure being performed;

(14) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;

(15)[~~(13)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;

(16)[~~(14)~~] "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;

2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices;

(17)~~[(15)]~~ "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;

(18)~~[(16)]~~ "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;

(19)~~[(17)]~~ "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet;

(20)~~[(18)]~~ "Secretary" means the secretary of the Cabinet for Health Services;

(21)~~[(19)]~~ "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;

(22)~~[(20)]~~ "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility;

(23)~~[(21)]~~ "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;

(24)~~[(22)]~~ "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation;

(25)~~[(23)]~~ "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person;

(26)~~[(24)]~~ "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;

(27)~~[(25)]~~ "To establish" means to construct, develop, or initiate a health facility;

(28)~~[(26)]~~ "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and

(29)~~[(27)]~~ "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.160 is amended to read as follows:

All health care facilities and services licensed under this chapter shall include in their policies and procedures a care delivery model based on patient needs which includes but is not limited to:

(1) Defined roles and responsibilities of licensed and unlicensed health care personnel;

(2) ***A policy that establishes the credentialing, oversight, appointment, and reappointment of the certified surgical assistant and for granting, renewing, and revising of the certified surgical assistant's clinical privileges;***

(3) A staffing plan that specifies staffing levels of licensed and unlicensed personnel required to safely and consistently meet the performance and clinical outcomes-based standards as outlined in the facility's or service's quality improvement plan;

(4)~~[(3)]~~A staffing model that is developed and implemented in an interdisciplinary and collaborative manner;

(5)~~[(4)]~~A policy and method that incorporates at least four (4) components in an ongoing assessment done by the registered nurse of the severity of the patient's disease, patient condition, level of impairment or disability, and the specific unit patient census to meet the needs of the individual patient in a timely manner; and

(6)~~[(5)]~~A staffing model that supports the delivery of patient care services with an appropriate mix of licensed health care personnel that will allow them to practice according to their legal scope of practice, and for nurses, the professional standards of practice referenced in KRS Chapter 314, and facility and service policies.

If a nursing facility, intermediate care facility, or skilled care facility meets the most current state or federal regulations which address safe and consistent staffing levels of licensed and unlicensed personnel, those shall suffice for compliance with the standards in this section. ***This section shall not be interpreted as requiring any health care facility to develop a policy or a procedure for a service not offered by the facility.***

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law, a health plan issued or renewed on or after July 15, 2000, that provides coverage for surgical first assisting or intraoperative surgical care benefits or services shall be construed as providing coverage for a certified surgical assistant who performs services as identified in subsection (13) of Section 1 of this Act.

Motions, Petitions, and Communications (Continued)

Upon a motion by Representative Stumbo and agreed to by the House, and pursuant to a motion adopted by the House on March 23, 2000, **SB 290** is recommitted to the Committee on Natural Resources and Environment.

Representative Graham moved the adoption of the following **HR 175**:

HR 175, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kay Kimbler.

With deepest respect and admiration, we pay homage and tribute to our friend, Kay Kimbler, and we pause in silent reverence for her soul.

WHEREAS, Kay Kimbler was born on October 12, 1944, a native of Providence, Webster County, Kentucky, and she traversed these earthly bounds on March 22, 1999; and

WHEREAS, Kay Kimbler was the loving daughter of Vera Almeda Stanley and the late Hugh Stanley; she was the caring sister of a brother, Bill Stanley; she was the devoted mother of two sons, Hugh Evors of Tuscaloosa, Alabama, and Bryan Kimbler of Frankfort; and she was the proud grandmother of two grandchildren, Ethan and Christian Evors; and

WHEREAS, Kay Kimbler was a faithful, loyal, and dedicated employee of the Legislative Research Commission, where she began her employment in December, 1987, for the 1988 session of the General Assembly, and continued as a full-time employee from October 16, 1989, to March 21, 1999, during which time she held the position of project center supervisor; and

WHEREAS, Kay Kimbler was a remarkable lady with the rare gift of making everyone feel extraordinarily special in her presence. She had the ability to "read" people and perceive their needs, and she was always a good listener, but was never judgmental. Kay inspired people through her optimistic outlook on life, and her compassion and true concern for others was demonstrated daily by the loyalty and love that she had for her many friends and co-workers; she was a passionate and free-spirited individual who had a propensity for words, a love for poetry, an affection for and knowledge of the old classic movies, and a gift for flower gardening, as evidenced by the beautiful and fragrant bouquets she displayed on her desk; and

WHEREAS, the passing of Kay Kimbler has left a void that can never be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement upon the passing of Kay Kimbler, and extends to her family and friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Kay Kimbler.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Ms. Vera Almeda Stanley, 2221 Parkwood Road, Louisville, Kentucky 40214; to Mr. Hugh Evors, 2015 La Vera Drive, Tuscaloosa, Alabama 35404; and to Mr. Bryan Kimbler, 2221 Parkwood Road, Louisville, Kentucky 40214.

There being no objection **HR 175** was adopted.

Roll call to show co-sponsors. (See March 22, 2000 roll call to show co-sponsors-Appendix.)

Representative Riner moved the adoption of the following **HR 173**:

HR 173, A RESOLUTION urging the medical schools of Kentucky to adopt policies that would make the Commonwealth the nation's premier state in having the highest percentage of students with a disability who are admitted to and graduate from its three medical schools.

WHEREAS, the Commonwealth of Kentucky should encourage efforts to promote opportunities for individuals with a disability to achieve their highest potential and fulfill their personal aspirations; and

WHEREAS, actor and crusader for the disabled, Christopher Reeve, stated in his February 3, 2000, address before the General Assembly, "People with disabilities have more motivation than the average person because they are so motivated to overcome. That energy needs to be tapped."; and

WHEREAS, individuals with a disability may have a unique insight into the experience of patients suffering from pain, diminished physical or cognitive capacity, or emotional distress due to illness or injury, based on their own experience in overcoming societal and physical barriers to full and active participation in life;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges the medical schools of the University of Kentucky, the University of Louisville, and the Pikeville College School of Osteopathic Medicine to adopt policies that would make the Commonwealth the nation's premier state in having the highest percentage of students with a disability who are admitted to and graduate from its three medical schools.

Section 2. This honorable body urges that the deans of Kentucky's three medical schools or their representatives report to the Interim Joint Committee on Education any significant steps taken or progress made in increasing the number of students with a disability admitted to their respective medical schools.

There being no objection **HR 173** was adopted.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HR 153**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **SB 21**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **SB 198**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **SB 300**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **SB 130**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that he be recorded as voting "yea" on **SB 331**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **SB 232, SB 186, SB 57, SB 21, SB 39, SB 116,** and **SB 167**. Agreed.

Representative Cherry moved that **HB 940** be withdrawn. Agreed

Representative C. Belcher moved that **HB 666** be withdrawn. Agreed.

Representative Marzian moved that House Floor Amendment No. 4 to **SB 279** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 11 to **SB 74**, by Representative Yonts:

On page 3, after line 26, insert:

"Section 2. (1) A committee is hereby created to make recommendations with regard to Kentucky's system for indexing legal documents. The committee shall consist of

(a) One (1) member appointed by the President of the Senate;

(b) One (1) member appointed by the minority floor leader in the Senate;

(c) One (1) member appointed by the Speaker of the House;

(d) One (1) member appointed by the minority floor leader in the House;

(e) Two (2) representative members from the:

1. Governor's Office;

2. Kentucky County Clerks Association;

3. Kentucky Bar Association;

4. Kentucky Association of Realtors; and

5. Kentucky Bankers Association; and

(f) One (1) representative member from the:

1. Department of Information Systems;

2. Department for Local Government; and

3. Administrative Office of the Courts.

(2) By September 1, 2000, the members shall be selected under subsection (1) of this section and their names shall be forwarded to the commissioner of Department for Local Government.

(3) (a) For administrative purposes the committee shall be attached to the Department for Local Government. The Department of Local Government shall provide a meeting room in which meetings shall be held, supplies, and staff.

(b) The Department for Local Government shall organize the first meeting at which the members shall pick a chair..

(c) No member of the committee shall receive an increase in salary or expenses for participating in committee work.

(4) The committee shall hold as many meetings as it deems necessary beginning in October 1, 2000, and ending June 1, 2000, to arrive at recommendations with regard to establishing and implementing a Kentucky county clerk uniform indexing system for the filing of legal documents to be used by all county clerks beginning January 1, 2002. The recommendations shall be presented to the commissioner of the Department for Local Government no later than June 15, 2000.

(5) By September 1, 2000, the Department for Local Government shall promulgate administrative regulations to carry out the recommendations.".

Floor Amendment No. 5 Title to **SB 294**, by Representative Jenkins:

By amending the title to read as follows:

"AN ACT relating to health services.".

Floor Amendment No. 4 to **SB 294**, by Representative Jenkins:

On page 6, after line 17, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) It is the responsibility of the legislature to establish public policy to improve the quality of health care to Kentuckians and to provide mechanisms for consumer protection;

(2) Proponents argue that the licensing of denturists would result in improvements to the quality of health care to Kentuckians, including better oral care, provide cost-effective alternatives for denture care services and products, and result in increased access to dental services generally; and

(3) The most prudent approach to determine whether denturists can practice without harming the public health is to establish a denturitry "pilot project" through which denturists may be provisionally licensed to practice denturitry and their practice closely monitored over a set period of time.

SECTION 3. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 15 of this Act, unless the context otherwise requires:

(1) "Office" means the Office of Aging Services within the Cabinet for Families and Children, established under KRS Chapter 194B;

(2) "Committee" means the Denturitry Oversight Committee established under Section 8 of this Act;

(3) "Denture" means a removable full or partial upper or lower dental appliance to be worn in the mouth to replace missing natural teeth;

(4) "Denturist" means a person provisionally licensed under Sections 2 to 15 of this Act to practice denturitry;

(5) "Denturitry pilot project" means a program established in Sections 2 to 15 of this Act to provisionally license denturists for a specified period of time to engage in the practice of denturitry under controlled conditions to determine competency to engage in permanent practice;

(6) "Practice of denturitry" means: the construction, repair, relining, reproduction, adjusting, and fitting of a denture into the oral cavity of a person to replace missing natural teeth; and

(7) "Unprofessional conduct" means willful acts of negligence or a pattern of continued and repeated malpractice, negligence, or incompetence, or illegal or unethical behavior in the course of the practice of denturitry.

SECTION 4. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Other provisions of KRS Chapter 313 notwithstanding, no person shall practice denturitry or perform any of the duties usually performed by a denturist unless the person at the time holds a valid provisional license to practice denturitry in the Commonwealth of Kentucky under Sections 2 to 15 of this Act.

(2) A person who is not licensed as a denturist under subsection (1) of this section shall not hold himself or herself out to the public as a denturist or use any terms, titles, or abbreviations that express or imply that the person is licensed as a denturist.

SECTION 5. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 2 to 15 of this Act shall not apply to persons licensed or registered under any other provision of the Kentucky Revised Statutes, including but not limited to dentists and dental laboratory technicians or students within accredited training programs of these professions. Nothing in Sections 2 to 15 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which these persons practice.

(2) Nothing in Sections 2 to 15 of this Act shall be construed to prohibit or interfere with the ability of a licensed dentist or registered dental laboratory technician to perform those activities that are associated with their practices, respectively, as provided in KRS Chapter 313.

(3) Nothing in Sections 2 to 15 of this Act shall be construed to prohibit or interfere with the practice of denturitry by students enrolled in a school approved by the committee, if the students only perform services in accordance with a course of instruction or an assignment from an instructor.

(4) Nothing in Sections 2 to 15 of this Act nor any other provision of KRS Chapter 313 shall be construed to prohibit or interfere with the ability of a denturist to enter into a partnership or other business association with a dentist, if the association will not impede the independent professional judgment of either party.

SECTION 6. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

The office, with the concurrence of the committee, may promulgate administrative regulations in accordance with KRS Chapter 13A and Sections 2 to 15 of this Act that:

(1) Establish practice standards and protocols for the practice of denturitry that are reasonable and necessary to protect the public health and safety;

(2) Establish an examination process for applicants for licenses and determine the passing grade;

(3) Establish a process for receiving and investigating complaints against licensed denturists and for taking appropriate disciplinary action; and

(4) Establish fees for examinations, licenses, and renewal of licenses that may not in aggregate exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of the denturitry pilot project.

SECTION 7. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The office shall issue a license as a denturist to an applicant who:

(a) Submits a completed application;

(b) Pays the appropriate fees;

(c) Documents at least two (2) years of formal education in dental laboratory technology;

(d) Documents at least two (2) years of formal education in denturitry that includes courses in head and oral anatomy and physiology, oral pathology, and microbiology;

(e) Documents at least one (1) year of full-time equivalent experience under the supervision of a licensed denturist;

(f) Has completed the education course on human immunodeficiency virus and acquired immunodeficiency syndrome described in KRS 214.610; and

(g) Passes an examination approved in accordance with Section 9 of this Act.

(2) An applicant for a license under subsection (1) of this section may substitute additional experience for the education required in subsection (1)(c) of this section on a year-for-year basis.

(3) Until January 1, 2001, a person may be licensed as a denturist without examination, if he or she can document:

(a) A minimum of ten (10) years of full-time equivalent experience in clinical practicum setting; or

(b) A minimum of three (3) years of full-time equivalent experience in a clinical practicum setting, with at least two (2) years of this experience being in a clinical practicum setting under the direct supervision of a licensed dentist.

(4) Any person who holds a valid license issued by another state, territory, or other governmental jurisdiction to practice denturitry shall be issued a license to practice in Kentucky upon application and submittal of the applicable fees, if the requirements of the licensing jurisdiction are substantially equivalent to those of Kentucky.

SECTION 8. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The Denturitry Oversight Committee of the Office of Aging Services is created. The committee shall consist of seven (7) members, with members appointed as follows:

(a) Two (2) members shall be dentists licensed in the Commonwealth of Kentucky and appointed by the Kentucky Board of Dentistry, one (1) of whom shall be a member of the board;

(b) Two (2) members shall each have at least ten (10) years of consecutive full-time equivalent experience in constructing dentures and shall be appointed by the Kentucky Association of Denturists; and

(c) Three (3) members shall be consumer advocates as follows:

1. The director of the Division of Consumer Protection within the Office of the Attorney General, or his or her designee;

2. The secretary of the Cabinet for Health Services, or his or her designee; and

3. A member of a senior citizens organization that represents a large number of consumers and has statewide membership, appointed by the Governor.

(2) Each member of the committee shall hold office for the term of the pilot project or until resignation.

(3) Any vacancy shall be filled for the remainder of the unexpired term in accordance with the provisions of subsection (1) of this section.

(4) Each member of the committee shall serve without compensation but shall receive reimbursement for any necessary expenses incurred in attending its meetings or engaging in other official business.

(5) The committee shall, in general terms, provide management oversight for the operation of the denturitry pilot project. Specifically, the committee shall:

(a) Provide consultation to the office in developing appropriate practice standards and protocols for the practice of denturitry;

(b) Maintain the records referenced in Section 13 that licensed denturists are required to submit to the committee;

(c) Make a recommendation to the office, when appropriate, for an action to be taken against a denturist that affects his or her license in accordance with Section 12; and

(d) Evaluate all records and documentation accrued during the course of the pilot project and make a recommendation to the General Assembly regarding continuance or discontinuance of the licensing of denturists.

SECTION 9. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The office, with the concurrence of the committee, shall approve and administer an examination for licensing under Sections 2 to 15 of this Act. The examination shall determine the qualifications, fitness, and ability of the applicant to practice denturitry. The examination may be written or clinical, or both.

(2) An examination shall be held at least annually.

(3) The first examination shall be conducted not later than October 1, 2000.

(4) The examination for a denturist license shall include the following subjects:

  (a) Partial denture construction and design;
  (b) Clinical dental technology;
  (c) Dental laboratory technology;
  (d) Clinical jurisprudence;
  (e) Asepsis;
  (f) Medical emergencies;
  (g) Cardiopulmonary resuscitation;
  (h) Head and oral anatomy and physiology;
  (i) Oral pathology; and
  (j) Microbiology.

(5) Upon payment of the appropriate fee, an applicant who fails an examination may retake the examination.

SECTION 10. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A denturist shall refer a patient to a dentist or a physician and not practice denturitry if the denturist identifies:

  (a) An abnormality or disease process in the patient's oral cavity that requires medical or dental treatment; or
  (b) The need for tissue or teeth modification to assure proper fit of a partial or full denture.

(2) If a denturist refers a patient to a dentist or a physician under subsection (1) of this section, the denturist shall not practice denturitry until corrective oral treatment has been successfully completed and the patient is released from the care of the dentist or physician.

SECTION 11. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A person, including but not limited to consumers, licensees, corporations, organizations, health-care facilities, and state and local government agencies, may submit a written complaint to the committee charging a licensed denturist with unprofessional conduct and specifying the grounds therefor. If the committee determines that the complaint merits investigation, or if the committee has reason to believe, without a written complaint, that a licensed denturist may have engaged in unprofessional conduct, the committee shall request the office to investigate to determine whether the allegations are substantiated. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

(2) Every licensed denturist shall conspicuously display a sign at each office location where denturitry services are provided notifying the public that written complaints concerning denturitry services may be forwarded to the committee for investigation. The sign shall be written in clear and legible letters of not less than one (1) inch in height, and contain the following statement: "Please address any written complaints regarding the services provided by the denturist to the Denturitry Oversight Committee of the Office of Aging Services."

(3) Each complaint received by the committee shall be recorded and shall include the licensee's name, name of complaining party, date of complaint, brief statement of complaint, and its ultimate disposition. Complaint records shall be open for public inspection upon final disposition.

(4) The committee may initiate an investigation on any complaint received, or on its own volition. The office shall conduct the investigation and report its findings to the committee. If the investigation of a complaint substantiates that an offense has been committed, the committee shall recommend that the office take disciplinary action that is commensurate with the nature, severity, and frequency of the offense.

SECTION 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Upon recommendation by the committee, the office may:

  (a) Refuse to issue or renew a license of a denturist;
  (b) Suspend, revoke, or impose probationary conditions upon a licensee;
  (c) Impose an administrative fine;
  (d) Issue a written reprimand;
  (e) Limit a licensee's scope of practice;
  (f) Order remedial education or retesting; or
  (g) Any combination thereof regarding any licensee upon proof of any of the following causes:
    1. Conviction of any felony or conviction of only those misdemeanors involving moral turpitude;

2. Gross malpractice or incompetence;

3. Mental or physical health that would endanger public health or safety;

4. Selling, renting, or lending to any person his or her license, or illegally or fraudulently obtaining a license from the office;

5. Unprofessional conduct;

6. Violating any of the provisions of Sections 2 to 15 of this Act or any lawful order; and

7. Failure to comply with Sections 2 to 15 of this Act or the administrative regulations of the office.

(2) A licensee may appeal a suspension or revocation of a license within thirty (30) days of the date of notification of action. Upon appeal, the office shall schedule an administrative hearing in accordance with KRS Chapter 13B.

SECTION 13. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

Each licensed denturist shall submit to the committee, on a quarterly basis:

(1) Information detailing his or her specific practice including, for each patient served, the patient's name, address, telephone number, services provided, cost of services rendered, and payment method; and

(2) Any other information that the committee deems necessary to collect to aid in analysis of the efficacy of the denturitry pilot project.

SECTION 14. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) During the course of the denturitry pilot project, the committee shall:

(a) Review and analyze the information collected from denturists referred to in Section 13 of this Act;

(b) Review and analyze the types and dispositions of any written complaints considered by the committee and office, including but not limited to any disciplinary actions imposed by the office under Sections 11 and 12 of this Act; and

(c) Review and analyze relevant research and any other material that would provide objective information pertinent to issues under consideration.

(2) No later than July 1, 2005, the committee shall prepare and submit a report to the Legislative Research Commission that recommends whether or not the provisional licensing of denturists should be made permanent, and if so, any recommended statutory or operational changes that should be included in enabling legislation to be considered by the 2006 General Assembly. If permanent licensure is not recommended and enabling legislation not enacted, provisional licensure under Sections 2 to 15 of this Act shall terminate effective July 1, 2006.

SECTION 15. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Any person who practices or attempts to practice denturitry without being licensed under Sections 2 to 15 of this Act, shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense, and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license, practices or attempts to practice denturitry shall constitute a separate offense.

(2) Any person who violates any provision of Sections 2 to 15 of this Act for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense, and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 315**, by Representative Johns:

On page 48, between lines 5 and 6, by inserting the following:

"SECTION 26. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in Sections 26 to 30 of this Act:

(1) "Access" means the ability to receive, use, and manipulate data and operate controls included in information technology to be in compliance with nationally accepted accessibility and usability standards such as those established by Section 255 of the Federal Telecommunications Act of 1996 and Section 508 of the Federal Workforce Investment Act of 1998;

(2) "Individual with a disability" means an individual who is considered to have a disability for the purpose of any federal or state law, and who is or would be able by information access assistive technology to maintain a level of functioning or to achieve a greater level of functioning in any major life activity;

(3) "Blind or visually impaired individual" means an individual who:

(a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so

that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees;

(b) Has a medically indicated expectation of visual deterioration; or

(c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability;

(4) "Covered entity" means the state or any state-assisted organization;

(5) "Deaf" or "hard of hearing" means persons who have hearing disorders and includes people who cannot hear and understand speech clearly through the ear alone, with or without hearing aids;

(6) "Information technology" means all electronic information processing hardware and software, including but not limited to telecommunications and any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of audio, video, graphics, and text;

(7) "Assistive technology" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, customized, fabricated, or is otherwise an alternative means that is used to increase, maintain, or improve functional capabilities of individuals with disabilities;

(8) "Nonvisual" means output methods not requiring sight, including but not limited to synthesized speech and Braille;

(9) "State" means the Commonwealth of Kentucky or any of its departments, agencies, public bodies, or other instrumentalities;

(10) "State-assisted organization" means a college, university, nonprofit organization, person, political subdivision, school system, or other entity supported in whole or in part by state funds;

(11) "Telecommunications" means the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means; and

(12) "Undue burden" means significant difficulty or expense, including but not limited to a difficulty or expense associated with technical feasibility.

SECTION 27. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The head of each covered entity shall ensure that information technology equipment and software used by the entity's employees, program participants, and the general public:

(1) Provide individuals with disabilities, including blind or visually impaired, or deaf or hard of hearing, with access, including but not limited to interactive use of equipment and services, that is equivalent to the access provided individuals who are not disabled, blind or visually impaired, or deaf or hard of hearing;

(2) Are designed to present information, including but not limited to prompts used for interactive communication, in formats intended for both visual and nonvisual use; and

(3) Have been purchased under a contract that includes the technology access clause required by Section 28 of this Act.

SECTION 28. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall develop a technology access clause which shall be in compliance with Section 255 of the Federal Telecommunication Act of 1996 and with Section 508 of the Federal Workforce Investment Act of 1998 and shall establish alternative, including nonvisual, access standards for use in the procurement of information technology by covered entities in accordance with the following requirements:

(1) The technology access clause shall require compliance with the standards established under this section. Except as otherwise provided in Section 29 of this Act, the technology access clause shall be included in all contracts entered into after the effective date of this Act for the procurement of information technology by, or for the use of, covered entities.

(2) The alternative and nonvisual access standards shall include the specifications necessary to meet the requirements of Section 27 of this Act. The standards shall include the following minimum specifications:

(a) Effective, interactive control and use of technology, including the operating system, applications programs, and format of the data presented shall be readily achievable by alternative and nonvisual means;

(b) The technology equipped for alternative and nonvisual access shall be compatible with information technology used by other individuals with whom the person with a disability, including the blind or visually impaired individual, must interact;

(c) Alternative and nonvisual access technology shall be integrated into networks used to share communications among employees, program participants, and the public; and

(d) The technology for alternative or nonvisual access shall have the capability of providing equivalent access by nonvisual of other alternative means to telecommunications or other interconnected network services used by persons who are not disabled.

SECTION 29. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of procurement, the head of any covered entity may, with respect to access software or peripheral devices and other assistive technology pertinent to individuals with disabilities access to information technology obtained following the effective date of this Act, approve the exclusion of the technology access clause if the cost of the software or peripheral devices or other assistive technology for the covered entity presents an undue burden.

(2) The head of any covered entity shall not approve the exclusion of the technology access clause from any contract with respect to:

(a) The compatibility of standard operating systems and software with nonvisual access or other assistive software, peripheral devices, or any assistive technology; or

(b) The initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software.

(3) Nothing in this section shall require the installation of software or peripheral devices for nonvisual or alternative access if the information technology is being used by individuals who are not blind, visually impaired, or otherwise disabled. However, the applications programs and underlying operating system, including the format of the data, used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

(4) Information technology purchased prior to the effective date of this Act shall be brought into compliance with Sections 26 to 30 of this Act when the covered entity upgrades or replaces the existing equipment or software. Nothing in Sections 26 to 30 of this Act shall be construed or interpreted to require the replacement or upgrade of existing equipment or software.

SECTION 30. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any person injured by a violation of Sections 26 to 30 of this Act may bring an action for injunctive relief in the Circuit Court of the county in which the person resides or in which the covered entity is located. An action for injunctive relief shall be commenced within four (4) years after the cause of action accrues. A cause of action for a continuing violation of Sections 26 to 30 of this Act shall accrue at the time of the latest occurrence of the violation.";

On page 48, line 6, by renumbering "Section 26" as "Section 31"; and

On page 48, line 24, by renumbering "Section 27" as "Section 32".

Floor Amendment No. 12 to **SB 74**, by Representative A. Arnold:

On Page 3, after line 26, by inserting,

"SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal court in a county with a county-wide fire protection district formed under KRS Chapter 75 that has entered into an interlocal agreement to provide fire service to the largest city in the county may, through the adoption of an ordinance in accordance with KRS 67.075 and 67.077, merge the boards of the following special districts that are wholly contained within the county:

(a) Ambulance districts created under KRS 108.080 to 108.180;

(b) Fire protection districts created under KRS 75.010 to 75.260; and

(c) Local rescue squad districts created under KRS Chapter 39F.

(2) Once the fiscal court has merged any of the boards listed in paragraphs (a) to (c) of subsection (1) of this section, no additional special districts listed in paragraphs (a) to (c) of subsection (1) of this section shall be permitted to be created whose board of directors and taxing authority are not transferred to the emergency services board, and no boundary of a district shall exceed the boundary of the county that the emergency services district represents.

(3) An emergency services board's jurisdiction shall encompass the boundaries of the special districts whose boards and taxing authority it is replacing.

(4) An emergency services board shall have the powers that constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(5) If an emergency services board chooses to levy the tax allowed in Section 7 of this Act, a certified copy of the ordinance levying the tax shall be filed with the county clerk who shall add the levy to the tax bills of the county. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the emergency services board.

(6) An emergency services board may be dissolved or the boundaries of the districts it represents may be altered if the procedures under KRS 65.164 to 65.176 are followed. If the emergency services board is dissolved, then the boards of the special districts of which it assumed the board duties shall be reappointed according to statute within thirty (30) days of the emergency services board's dissolution, and the original taxing protocol applicable to the specific special district shall apply. Each special district shall assume that portion of the debt attributable to its service. Any

unattributable debt shall be assumed by the fiscal court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) or more fiscal courts of which one (1) county shall have a county-wide fire protection district formed under KRS Chapter 75 that has entered into an interlocal agreement to provide fire service to the largest city in the county may, through the adoption of concurrent ordinances in accordance with KRS 67.075 and 67.077, merge the boards of the following special districts that are wholly contained within their counties:

(a) Ambulance districts created under KRS 108.080 to 108.180;

(b) Fire protection districts created under KRS 75.010 to 75.260; and

(c) Local rescue squad districts created under KRS Chapter 39F.

(2) Once the fiscal courts have merged any of the boards listed in paragraphs (a) to (c) of subsection (1) of this section, no additional special districts listed in paragraphs (a) to (c) of subsection (1) of this section shall be permitted to be created in any of the member counties whose administration and taxing authority are not transferred to the emergency services board, and no boundary of a district shall exceed the boundaries of the counties that the multicounty emergency services district represents.

(3) A multicounty emergency services board's jurisdiction shall encompass the boundaries of the special districts within the member counties whose boards and taxing authority it is replacing.

(4) A multicounty emergency services board shall have the powers that constitute a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(5) If a multicounty emergency services board chooses to levy the tax allowed in Section 7 of this Act, a certified copy of the ordinance levying the tax shall be filed with the county clerk of each member county who shall add the levy to the tax bills of the county. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the emergency services board.

(6) A multicounty emergency services board may be dissolved or the boundaries altered if the procedures under KRS 65.164 to 65.176 are followed. If the emergency services board is dissolved, then the boards of the special districts of which it assumed the board duties shall be reappointed according to statute within thirty (30) days of the emergency services board's dissolution, and the original taxing protocol applicable to the specific special district shall apply. Each special district shall assume that portion of the debt attributable to its service. Any unattributable debt shall be assumed equally by each fiscal court formerly participating in the multicounty emergency services board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The emergency services board shall be a corporate public body and a political subdivision of the Commonwealth. It may prosecute and defend suits, hire necessary employees, and perform all acts necessary to carry on the work of providing fire fighting, emergency ambulance, and rescue squad services to the community.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the emergency services board composed of one (1) county shall be controlled and managed by a board of directors appointed by the county judge/executive with the approval of the fiscal court.

(2) The county judge/executive shall appoint:

(a) One (1) member from each magisterial district of the county; and

(b) One (1) additional member from the county at large.

(3) (a) If the board is composed of a number evenly divisible by four (4):

1. One-fourth (1/4) of the board members' initial terms shall be one (1) year;

2. One-fourth (1/4) of the board members' initial terms shall be two (2) years;

3. One-fourth (1/4) of the board members' initial terms shall be three (3) years; and

4. One-fourth (1/4) of the board members' initial terms shall be four (4) years.

(b) If the board is composed of a number unevenly divisible by four (4), then the county judge/executive shall appoint the remainder for a term of four (4) years.

(4) After the initial appointment, terms of the board members shall be for four (4) years.

(5) Board members may be reappointed, and they may succeed themselves.

(6) Each board member shall reside in the county.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided in KRS 65.007.

(9) The county judge/executive shall serve as an ex officio member of the board.

(10) No elected official shall serve as a member of the board.

(11) The board shall be appointed within thirty (30) days after the creation of the emergency services board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the emergency services board composed of more than one (1) county shall be controlled and managed by a board of directors consisting of no more than eleven (11) members, with the number of members to be determined jointly by the county judges/executive of the member counties.

(2) The county judge/executive of each member county shall be entitled to appoint a proportionate share of the board relative to the population of the county according to the most recent federal census estimates of the year in which appointments are to be made with the approval of their respective fiscal courts. With the exception of the expiration of the initial appointment at the creation of the emergency services board, each year an appointment term expires the county judges/executive shall determine which county judge/executive, according to the adjusted population count, shall be allowed to make an additional appointment with the approval of his or her fiscal court. Each member county shall be allowed at least one (1) appointee. In no instance shall the emergency services board encompass more than eleven (11) counties.

(3) (a) One-fourth (1/4) of the board members' initial terms shall be one (1) year;

(b) One-fourth (1/4) of the board members' initial terms shall be two (2) years;

(c) One-fourth (1/4) of the board members' initial terms shall be three (3) years; and

(d) One-fourth (1/4) of the board members' initial terms shall be four (4) years.

(4) After the initial appointment, terms of the board members shall be for four (4) years.

(5) Board members may be reappointed, and they may succeed themselves.

(6) Each board member shall reside in the county he or she represents.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided in KRS 65.007.

(9) The county judge/executive of each county shall serve as an ex officio member of the board.

(10) No elected official shall serve as a member of the board.

(11) The board shall be appointed within thirty (30) days after the creation of the emergency services board.

(12) Vacancies in unexpired terms shall be filled by the appointing authority for the remainder of the unexpired term. No reapportionment, in accordance with the provisions of subsection (2) of this section, shall be executed in the instance of a vacancy in an unexpired term.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) In order to ensure the delivery of adequate services to the community or communities, the emergency services board may levy an ad valorem tax not to exceed ten cents ($0.10) per one hundred dollars ($100) of the assessed valuation of all property in the district. The emergency services board ad valorem tax shall be collected by the sheriff of each member county in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected; and

(b) The emergency services board may, in addition to the ad valorem tax in paragraph (a) of this section, charge fees necessary to further defray the costs of its operation.

(2) Tax and license fee revenues derived from this section shall be used only for the services described in Section 2 or 3 of this Act.

(3) The assets and liabilities of the special districts under the jurisdiction of the emergency services board shall be maintained separately, but shall be managed by the emergency services board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The emergency services board may contract with private and public entities to provide fire, ambulance, and emergency squad services.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Once an emergency services board assumes control over fire, ambulance, or emergency squad districts, a fiscal court, or fiscal courts through an interlocal agreement, may opt to provide fire, ambulance, and emergency squad services directly or through an agency of county government. If that is the case, a dedicated ad valorem tax for the provision of fire, ambulance, and emergency squad services exclusive of all other taxes may be levied by the county or counties. The provisions of the ad valorem tax of Section 7 of this Act shall apply.

(2) The initial levy of the ad valorem tax for the provision of funding to the emergency services board under this section shall not be subject to the recall provisions of KRS 68.245 or 132.023, whichever is applicable. Subsequent changes to the amount shall be subject to the provisions of KRS 68.245 or 132.023, whichever is applicable.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

In counties where ambulance districts created under the provisions of KRS 108.080 to 108.180; fire protection districts created under the provisions of KRS 75.010 to 75.260; or local rescue squad districts created under the provisions of KRS Chapter 39F exist and have enacted an ad valorem tax, the emergency services board may leave those ad valorem tax levies in place. The emergency services board may levy its permitted funding mechanisms in addition to these existing taxes, but the aggregate of the existing tax levied by the original district or districts, and the tax levied by the emergency services board shall not exceed the limits prescribed in Section 7 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

If a fiscal court chooses to create an emergency services board, the provisions of Sections 2 to 11 of this Act shall supersede the structure of the boards of directors and the taxing privileges under KRS 108.080 to 108.180, KRS 75.010 to 75.260, and KRS Chapter 39F. The remaining provisions of KRS 108.080 to 108.180, KRS 75.010 to 75.260, and KRS Chapter 39F, applicable to the operation of the fire department, ambulance service, or emergency squad, shall remain in effect.

Section 12. KRS 65.164 is amended to read as follows:

As used in KRS 65.166 to 65.176, the word "district" shall mean any board, commission or special district created pursuant to the following statutes: ***Sections 2 to 11 of this Act,*** KRS 75.010 to 75.260; KRS 104.450 to 104.680; KRS 108.010 to 108.070; KRS 184.010 to 184.300; KRS 220.010 to 220.613; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 269.100 to 269.270.".

Floor Amendment No. 1 to **SB 309**, by Representative Yonts:

On page 1, delete lines 19, 20, and 21, and insert in lieu thereof "***the trust so long as the trust dictates but in no event longer than one hundred (100) years.***"

Floor Amendment No. 13 to **SB 74**, by Representative Yonts:

On page 3, after line 26, insert:

"Section 2. (1) A committee is hereby created to make recommendations with regard to Kentucky's system for indexing legal documents. The committee shall consist of

(a) One (1) member appointed by the President of the Senate;

(b) One (1) member appointed by the Minority Floor Leader in the Senate;

(c) One (1) member appointed by the Speaker of the House;

(d) One (1) member appointed by the Minority Floor Leader in the House;

(e) Two (2) representative members from the:

1. Governor's Office;

2. Kentucky County Clerks Association;

3. Kentucky Bar Association;

4. Kentucky Association of Realtors; and

5. Kentucky Bankers Association; and

(f) One (1) representative member from the:

1. Department of Information Systems;

2. Department for Local Government; and

3. Administrative Office of the Courts.

(2) By September 1, 2000, the members shall be selected under subsection (1) of this section and their names shall be forwarded to the commissioner of Department for Local Government.

(3) (a) For administrative purposes the committee shall be attached to the Department for Local Government. The Department of Local Government shall provide a meeting room in which meetings shall be held, supplies, and staff.

(b) The Department for Local Government shall organize the first meeting at which the members shall pick a chair.

(c) No member of the committee shall receive an increase in salary or expenses for participating in committee work.

(4) The committee shall hold as many meetings as it deems necessary between October 1, 2000, and June 1, 2000, to arrive at recommendations with regard to establishing and implementing a Kentucky county clerk uniform indexing system for the filing of legal documents to be used by all county clerks beginning January 1, 2002. The recommendations shall be presented to the commissioner of the Department for Local Government no later than June 15, 2000.

(5) By September 1, 2000, the Department for Local Government shall promulgate administrative regulations to carry out the recommendations.".

Floor Amendment No. 4 to the House Committee Substitute to **SB 170**, by Representative Damron:

On page 3, line 20 after "(2)" by deleting the remainder of line 20 in its entirety;

On page 3, by deleting lines 21 and 22 in their entirety;

On page 3, line 23 by deleting "***investment without intent to resell the mortgage loan***" and by removing the brackets and strikethrough from "The following";

On page 4, line 1 after "294.220" by adding "***, and lenders described in paragraph (a) of this subsection shall be subject to the filing requirements of KRS 294.160 and the net worth requirements of Section 9 of this Act***" and by removing the bracket and strikethrough;

On page 4, by removing the strikethrough from lines 2 and 3 and after the semicolon on line 3 by adding "***and***"

On page 4, line 4, by removing the strikethrough from "(b)" and after "(b)" by inserting the following: "***Any person making less than five (5) mortgage loans or brokering less than five (5) mortgage loans per calendar year in Kentucky and any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan*** [";

On page 11, after line 14 by adding:

"Section 8. KRS 294.160 is amended to read as follows:

(1) Every mortgage loan company and mortgage loan broker shall make and keep such accounts, correspondence, memoranda, papers, books, data, and other records as the commissioner prescribes, or that are required by federal law. Every mortgage loan company and mortgage loan broker shall file such financial reports as the commissioner by regulation prescribes. If the information contained in any document filed with the commissioner is or becomes inaccurate or incomplete in any material respect, the licensee shall promptly file a correcting amendment.

(2) All mortgage loan lenders regulated by the Department of Housing and Urban Development and lenders who supply funds for mortgage loans insured by the Farmers Home Administration and the Veterans Administration shall annually file with the department:

(a) An annual audited financial statement completed and prepared by a certified public accountant;

(b) A quality control plan; and

(c) A report of the quality control review findings, prepared by a qualified, quality control review firm approved by the department.

(3) All quality control reviews as set forth in subsection (2) of this section shall be based on a sample of at least ten percent (10%) of the lender's total production and shall include mortgages from all product lines.

SECTION 9. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

All lenders subject to this chapter shall have at all time a net worth of at least twenty thousand dollars ($20,000)."

Floor Amendment No. 5 to **SB 247**, by Representative Anderson:

On page 21, after line 7, by inserting the following:

"SECTION 17. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) Upon petition in the respective city, county, or commissioner's or magisterial electoral district as provided in KRS 242.020, any city, county, or commissioner's or magisterial electoral district, with or without prohibition in effect, shall hold a local option election in the manner prescribed in KRS 242.030(1), (2), and (5), 242.040, 242.060, 242.070, and 242.080. The proposition to be voted upon shall be "Are you in favor of the sale in the (city, county, or electoral district) of alcoholic beverages by the drink limited to restaurants or dining facilities in hotels, motels, or inns where the dining facilities have seating for at least one hundred (100) persons and derive at least seventy percent (70%) of its gross annual food and beverage receipts from the sale of food?" If a majority of the voters vote "Yes" on the proposition, the legislative body of the city or county may enact a comprehensive, regulatory ordinance covering the licensing and operation of dining facilities at hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(2) Licenses shall only be issued to dining facilities for not less than one hundred (100) persons at hotels, motels, or inns containing not less than fifty (50) sleeping units or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons, and that derive a minimum of seventy percent (70%) of their gross annual food and beverage receipts from the sale of food.

(3) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable policies and procedures as may be necessary for the enforcement or administration of this section. However, any policies and procedures adopted shall conform to the requirements of KRS 241.190.

(4) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.070, the city or

county may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county under KRS 243.070.".

Floor Amendment No. 2 to **SB 76**, by Representative Anderson:

On page 2, line 11, after "teachers," by inserting "***one (1) community representative,***";

On page 2, line 11, after "administrator" by inserting "***as a nonvoting member except in the event of a tie vote***";

On page 3, line 1, after "purpose." by inserting "***The community member shall be elected by the teachers and the parents of the school at the same time the parents are elected from a ballot that includes two (2) nominees offered by the teachers and two (2) nominees offered by the parent and teacher organization.***"; and

On page 3, line 2, after "parent" by inserting "***, community,***".

Floor Amendment No. 3 to **SB 76**, by Representative Anderson:

On page 5, line 5 after the period by inserting: "***The superintendent shall initially recommend no fewer than three (3) principal candidates and shall honor all requests of the council to provide additional candidates.***";

On page 5, line 7 by placing an opening bracket in front of "The" the third time it appears and on line 9 by placing a closing bracket after the period and striking through all language in between.

Floor Amendment No. 14 to **SB 74**, by Representative Yonts:

On page 3, after line 26, insert:

"Section 2. (1) A committee is hereby created to make recommendations with regard to Kentucky's system for indexing legal documents. The committee shall consist of

(a) One (1) member appointed by the President of the Senate;
(b) One (1) member appointed by the Minority Floor Leader in the Senate;
(c) One (1) member appointed by the Speaker of the House;
(d) One (1) member appointed by the Minority Floor Leader in the House;
(e) Two (2) representative members from the:
1. Governor's Office;
2. Kentucky County Clerks Association;
3. Kentucky Bar Association;
4. Kentucky Association of Realtors; and
5. Kentucky Bankers Association; and
(f) One (1) representative member from the:
1. Department of Information Systems;
2. Department for Local Government; and
3. Administrative Office of the Courts.

(2) By September 1, 2000, the members shall be selected under subsection (1) of this section and their names shall be forwarded to the commissioner of the Department for Local Government.

(3) (a) For administrative purposes the committee shall be attached to the Department for Local Government. The Department for Local Government shall provide a meeting room in which meetings shall be held, supplies, and staff.

(b) The Department for Local Government shall organize the first meeting at which the members shall pick a chair.

(c) No member of the committee shall receive an increase in salary or expenses for participating in committee work.

(4) The committee shall hold as many meetings as it deems necessary between October 1, 2000, and June 1, 2001, to arrive at recommendations with regard to establishing and implementing a Kentucky county clerk uniform indexing system for the filing of legal documents to be used by all county clerks beginning January 1, 2002. The recommendations shall be presented to the commissioner of the Department for Local Government no later than June 15, 2001.

(5) By September 1, 2001, the Department for Local Government shall promulgate administrative regulations to carry

out the recommendations.".

Floor Amendment No. 1 to **SB 218**, by Representative Vincent:

On page 12, line 9, after "*may*" insert "*, after application to and approval of the Circuit Court,*".

Floor Amendment No. 3 to **SB 254**, by Representative Marzian:

On page 1, after line 15, by inserting "Section 2. KRS 77.115 is amended to read as follows:

(1) The air pollution control board is hereby declared to be the governing body of an air pollution control district, and shall manage and control all the affairs and property of such district, and shall exercise all the powers of such district not otherwise delegated by this chapter. In a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall assume all of the duties and responsibilities of the hearing board appointed under KRS 77.105, and the hearing board shall be abolished.

(2) Notwithstanding any provision of this chapter to the contrary, in a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall have regulatory authority for the district, and the city or county, as appropriate, shall exercise funding and administrative control of the district.

(3) If an air pollution control board finds the need for and requires the implementation of a vehicle exhaust testing program, the program shall prohibit emissions of, regulate, or control only those types of mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765, unless the testing program is in effect on the effective date of this Act. No testing program, in effect or adopted after the effective date of this Act, shall require the emission testing of motorcycles, as that term is defined in KRS 189.285(6).

Section 3. KRS 77.170 is amended to read as follows:

(1) *Except for subsection (3) of this section,* the General Assembly does not, by the provisions of this chapter, intend to occupy the field. *Except for subsection (3) of this section,* the provisions of this chapter do not prohibit the enactment or enforcement of any local ordinance stricter than the provisions of KRS 77.150 to 77.180 and stricter than the rules and regulations adopted pursuant to KRS 77.180 to 77.240, which local ordinance prohibits, regulates, or controls air pollution.

(2) *Except for subsection (3) of this section,* the provisions of this chapter do not supersede any such local ordinance. If it should be held that the provisions of this chapter supersede the provisions of any local ordinance, such suspension shall not bar the prosecution or punishment of any violation of such ordinance which violation was committed when such ordinance, was in full force and effect.

(3) Local ordinances prohibiting, regulating, or controlling emissions from mobile sources of air pollutants shall prohibit emissions of, regulate, or control only those types of mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765, except for local ordinances in effect on the effective date of this Act. No air pollution control district that has received authority to operate a vehicle emission control program shall, after the effective date of this Act, require emission testing of motorcycles, as that term is defined in KRS 189.285(6). The provisions of this subsection shall supersede any existing local ordinance involving the inspection of motorcycles under a vehicle emission control program administered by an air pollution control district. All counties, cities, special districts, and other units of local government, including an air pollution control district, shall be prohibited from enacting an ordinance contrary to the provisions of this subsection. Any county, city, special district, or other unit of local government, including an air pollution control district, that currently has an ordinance requiring the inspection of motorcycles under a locally administered vehicle emission control program, shall repeal that aspect of the ordinance within thirty (30) days of the effective date of this Act. Any local government that fails to repeal an ordinance requiring the inspection of motorcycles in violation of this section, shall have the local government's authority to administer a vehicle emission control program immediately suspended until the offending ordinance is repealed.

Section 4. KRS 224.20-130 is amended to read as follows:

(1) Each county which pursuant to the provisions of KRS Chapter 77 has established or will establish a local air pollution control program, shall submit a synopsis of said program together with such standards and procedures as are enacted by regulations to the cabinet for approval within a period of ninety (90) days from the enactment hereof, or a period of ninety (90) days of the establishment of said local program.

(2) If, after review by the cabinet, and a public hearing held in the county activating a district, the cabinet determines that the air pollution control district has adopted standards and procedures and has the necessary staff to implement the program in a manner consistent with the objectives of this chapter, concurrent jurisdiction may be granted the air pollution control district for the administration and enforcement of the aforesaid statutes. The air pollution control district shall adopt no regulation or standard less stringent than a regulation or standard adopted by the cabinet, and shall submit prepared

regulations and standards to the cabinet for prior concurrence. Periodic reports shall be made to the cabinet and to the commission as shall be provided for by regulation. If the cabinet shall determine, after hearing with notice, that a district program is not being administered in accordance with the statutes and regulations of the cabinet or the district, the grant of authority may be suspended, revoked, or modified by order of the cabinet. ***After the effective date of this Act, no district program shall require emission testing of motorcycles, as that term is defined in KRS 189.285(6).***

(3) This provision shall in no way diminish the authority of the cabinet to administer and enforce the provisions of this chapter.

(4) The cabinet shall be empowered to enforce any and all regulations or standards in any district when concurrent jurisdiction is granted.

(5) When enforcement actions are taken by the district, the local Commonwealth's, county, and city prosecuting attorneys, instead of the Attorney General shall prosecute such actions."

Floor Amendment No. 15 to **SB 74**, by Representative J. Arnold:

On page 3, after line 26 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Employ" means to hire, retain, or otherwise contract with an individual or entity for goods or services; and

(b) "Local government" means a city, county, charter county government, urban-county government, or a special district.

(2) A local government shall not employ, directly or indirectly, any architectural firm to serve as a construction manager on a capital construction project. No officer, employee, immediate family member, or agent for the architectural firm that provides the architectural services shall provide construction management services for the same capital construction project from which the architectural firm, or its officers, employees or agents will derive a monetary gain.

(3) A violation of subsection (2) of this section shall disqualify the local government from receiving any financial assistance from the state or any state agency with respect to the project for which the architectural firm was employed.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 189**, by Representative Riner:

On page 6, after line 14, by inserting the following:

"Section 6. KRS 344.180 is amended to read as follows:

The powers and duties of the commission shall be:

(1) To employ an executive director and other necessary personnel within the limits of funds made available;

(2) To conduct research projects or make studies into and publish reports on discrimination in Kentucky;

(3) To receive and investigate complaints of discrimination and to recommend ways of eliminating any injustices occasioned thereby;

(4) To hold public hearings and request the attendance of witnesses;

(5) To cooperate with other organizations, public and private, to discourage discrimination;

(6) To encourage fair treatment for all persons regardless of race or national ancestry;

(7) ***To prevent discrimination against any active or former members of the United States Armed Forces and to advocate that it is the policy of the Commonwealth to promote the healthy development of each human fetus and to discourage the destruction of any human fetus in the Commonwealth solely on the basis of gender; and***

(8) To make an annual report to the Governor of its activities under this chapter.".

Floor Amendment No. 3 to **SB 189**, by Representative Riner:

On page 6, after line 13, by inserting the following:

"Section 6. KRS 344.180 is amended to read as follows:

The powers and duties of the commission shall be:

(1) To employ an executive director and other necessary personnel within the limits of funds made available;

(2) To conduct research projects or make studies into and publish reports on discrimination in Kentucky;

(3) To receive and investigate complaints of discrimination and to recommend ways of eliminating any injustices occasioned

thereby;

(4) To hold public hearings and request the attendance of witnesses;

(5) To cooperate with other organizations, public and private, to discourage discrimination;

(6) To encourage fair treatment for all persons regardless of race or national ancestry;

(7) ***To prevent discrimination against any active or former members of the United States Armed Forces and to advocate that it is the policy of the Commonwealth to promote the healthy development of each human fetus and to discourage the destruction of any human fetus in the Commonwealth solely on the basis of gender; and***

(8) To make an annual report to the Governor of its activities under this chapter.".

Floor Amendment No. 4 to **SB 189**, by Representative Riner:

On page 1, line 1, following "practice", by inserting "***, including the termination of a pregnancy by the destruction of a human fetus solely on the basis of gender,***".

Floor Amendment No. 5 to the House Committee Substitute to **SB 189**, by Representative Riner:

On page 1, line 1, following "practice", by inserting "***, including the termination of a pregnancy by the destruction of a human fetus solely on the basis of gender,***".

Floor Amendment No. 1 Title to **SB 72**, by Representative Upchurch:

Amend title to read as follows: "AN ACT relating to local governments."

Floor Amendment No. 3 to **SB 72**, by Representative Upchurch:

On page 1, after line 14 by adding the following:

"Section 2. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

  (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

  (b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;~~[and]~~

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247***;***

(25) "Manufactured home" means a single-family residential dwelling as defined in KRS 227.550;

(26) "Qualified manufactured home" means a manufactured home that meets all the criteria in paragraphs (a) to (g) of this subsection. A qualified manufactured home:

(a) Is manufactured after January 1, 2000, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code;

(b) Is affixed to a permanent foundation, is connected to the appropriate facilities, and is installed in compliance with KRS 227.570;

(c) Has a width of at least twenty-two (22) feet at its smallest width measurement, or is two (2) stories in height, and is oriented on the lot or parcel so that its main entrance door faces the street;

(d) Has a minimum total living area of nine hundred (900) square feet;

(e) Has a minimum roof pitch of a four (4) foot rise to a twelve (12) foot run;

(f) Has conventional residential siding and a minimum of a six (6) inch eave overhang; and

(g) Is not located in a manufactured home park; and

(27) "Permanent foundation" means a permanent masonry, concrete, or locally approved footing or foundation, excluding temporary blocks, to which a manufactured home may be affixed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section and Section 4 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulations or ordinances relating to a mobile home.

(2) Cities, counties, urban-county governments, and charter county governments shall not adopt or enforce zoning or other land use regulations or ordinances that exclude qualified manufactured homes from those cities, counties, urban-county governments, or charter county governments, or that differentiate qualified manufactured homes within those cities, counties, urban-county governments, or charter county governments that are sited on a permanent foundation, as defined in subsection (27) of Section 2 of this Act, from other residential housing solely because the qualified manufactured homes are either built in a factory or are not built on-site.

(3) Cities, counties, urban-county governments, and charter county governments may adopt regulations concerning the size, aesthetics, and architectural design of a qualified manufactured home so that the special character of neighborhoods, including historic preservation districts, may be maintained. Nothing in this section limits the ability of cities, counties, urban-county governments, or charter county governments to adopt zoning or land use regulations or ordinances that affect residential housing other than as prescribed in subsection (2) of this section or to require a final inspection of any manufactured home for the purpose of ensuring that no damage has occurred during transportation or assembly of the manufactured home that could compromise its structural integrity.

Section 4. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

(a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

(b) The size, width, height, bulk, location of structures, buildings and signs;

(c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

(d) Intensity of use and density of population floor area to ground area ratios, or other means;

(e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

(f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

(g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

(a) Setback lines may be required for the protection of existing and proposed streets and highways;

(b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

(c) ***Manufactured homes,*** mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced***; and***

(9) Nothing in this chapter shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that excludes qualified manufactured homes, as defined in Section 2 of this Act, from locating within the boundaries of the city, county, urban-county government or charter county government, or differentiates qualified manufactured homes, as defined in Section 2 of this Act, from other single-family residential dwellings contrary to the provisions contained in Sections 2, 3, and 4 of this Act.".

Floor Amendment No. 2 to **SB 163**, by Representative Riggs:

On page 1, after the title, by inserting the following:

"WHEREAS, Section 181 of the Constitution of this Commonwealth prohibits the General Assembly from imposing license fees or taxes for the purpose of any local government, but permits the General Assembly by general laws to confer on the proper authorities of any local government the power to assess and collect license fees or taxes; and

WHEREAS, authority to assess and collect license fees or taxes on insurance companies has been conferred on local governments under KRS 91A.080; and

WHEREAS, license fees and taxes are currently levied by more than 300 county, city, and urban-county governments upon premiums collected by insurance companies; and

WHEREAS, license fees and taxes are customarily payable in four quarterly installments with a fifth and final balancing payment after the close of the calendar year; and

WHEREAS, the filing and processing of such an enormous number of returns, both quarterly and annually, constitutes an unreasonable administrative burden to the insurance companies and to the local governments imposing license fees and taxes; and

WHEREAS, the General Assembly finds that the administrative burden will be eliminated to the benefit of all parties involved by providing for the remittance of city and urban-county taxes to the Kentucky League of Cities and of county taxes to the Kentucky Association of Counties in single consolidated payments and by the allocation and disbursement of these taxes by the Kentucky League of Cities to cities and urban-counties and by the Kentucky Association of Counties to counties in single consolidated payments; and

WHEREAS for the reasons set out in the previous six paragraphs, the General Assembly is enacting Sections 1 to 9 of this Act; and

WHEREAS the General Assembly finds the economic prosperity and overall quality of life of the Commonwealth's citizens are intertwined with and dependent upon the financial stability and well-being of the Commonwealth's cities and counties; and

WHEREAS the cities and counties of the Commonwealth of Kentucky are finding it increasingly difficult to raise the tax revenue necessary to fund expanding service needs, maintain or replace aging infrastructure, and address the many other local problems that place demands on financial resources, and that the cities and counties of the Commonwealth of Kentucky are increasingly involved in conflicts over such issues as service responsibility, tax base allocation, annexation, and land use planning; and

WHEREAS it is clear that the problems confronting the cities and counties of the Commonwealth of Kentucky require the immediate attention of state and local leaders; and

WHEREAS for the reasons set out in the previous three paragraphs the General Assembly is enacting Sections 11 to 13 of this Act;

NOW, THEREFORE,"; and

On page 1, line 1, through page 8, line 24, by deleting Sections 1 through 6 in their entirety and by inserting the following after the enacting clause:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 9 of this Act:

(1) "Local government" means a city, county, urban-county, or charter county government, except counties containing a city of the first class and cities of the first class.

(2) "Commissioner" means the commissioner of the Department of Insurance.

Section 2. KRS 91A.080 is repealed, reenacted as a new section of KRS Chapter 65, and amended to read as follows:

(1) The legislative body of each ***local***~~[city, county, or urban-county]~~ government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those ***local***~~[cities, county, or urban-county]~~ governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a ***local***~~[city, county, or urban-county]~~ government upon an insurance company with respect to life insurance policies, may be based upon ~~[the first year's]~~premiums, and, if so based, shall be applied ***only*** to the amount of the premiums ***for the first twelve (12) months of coverage*** actually collected ~~[within each calendar quarter]~~upon the lives of persons residing within the corporate limits of the ***local***~~[city, county, or urban-county]~~ government.

(3) Any license fee or tax imposed by a ***local***~~[city, county, or urban-county]~~ government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the ***local***~~[city, county, or urban-county]~~ government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the ***local***~~[city, county, or urban-county]~~ government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the ***local***~~[city, county, or urban-county]~~ government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the ***local***~~[city, county or urban-county]~~ government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any ***local***~~[city, county, or urban-county]~~ government, at the expense of the requesting ***local***~~[city, county, or urban-county]~~ government, which shall be paid in advance by the ***local***~~[city, county, or urban-county]~~ government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the ***local***~~[city, county, or urban-county]~~ government. Willful failure to properly collect and remit the fee or tax imposed by a ***local***~~[city, county, or urban-county]~~ government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end

of each calendar quarter. Annually, by March 31, each insurer shall furnish each ***local***[~~city, county, or urban-county~~] government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. ***The***[~~Such~~] interest payable to the ***local***[~~city, county, or urban-county~~] government is separate of penalties provided for in subsection (7) of this section. No ***local***[~~city, county, or urban-county~~] government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS 42.800 to 42.825.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) ***(a)*** Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

On or before August 1, 2000, each insurance company subject to the provisions of Section 2 of this Act shall make an election on a form provided by the Department of Insurance whether to remit license fees or taxes beginning with calendar year 2001 and all subsequent years under the procedures of Section 2 or Section 4 of this Act. On and after January 1, 2001, an insurance company that has elected to continue to pay license fees or taxes under the procedures of Section 2 of this Act may elect to pay license fees or taxes under the procedures in Section 4 of this Act only with the approval of the commissioner and by complying with any requirements that may be imposed by the Department of Insurance. An election made under this section may not be subsequently changed by an insurance company without the written approval of the commissioner; however, subject to Section 9 of this Act, an insurance company's initial election to be subject to the provisions of Section 4 of this Act shall not be changed for at least three (3) years. For insurance companies making application for a certificate of authority to do business in this Commonwealth, the election shall be filed with the company's application for the certificate of authority.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This section shall apply only to those insurance companies that have elected to remit license fees or taxes imposed as provided by subsection (1) of Section 2 of this Act and to remit those taxes under the procedures in this section.

(1) As used in this section, "administrator" means the Kentucky League of Cities with respect to license fees or taxes imposed by cities and urban-county governments and the Kentucky Association of Counties with respect to license fees or taxes imposed by counties and charter counties. The Kentucky League of Cities and the Kentucky Association of Counties shall act in concert in administering license fees and taxes under this section.

(2) Any license fee or tax imposed by a local government upon an insurance company with respect to life insurance policies may be based upon premiums and, if so based, shall be applied only to premiums for the first twelve (12) months of coverage actually collected upon the lives of persons residing within the corporate limits of the local government.

(3) Any license fee or tax imposed by a local government upon any insurance company with respect to any policy that is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar year on risks located within the corporate limits of the local government on those classes of business that the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the administrator, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the

policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next annual report to the administrator. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the workers' compensation laws.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected for each local government and remitted to the administrator or two percent (2%) of the premiums subject to the tax, whichever is less.

(5) To facilitate computation, collection, and remittance of the fee or tax and the collection fee provided in this section, the fees or taxes and the collection fee in this section may be rounded off to the nearest dollar amount.

(6) In accordance with KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(7) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee shall be determined by administrative regulations promulgated by the Department of Insurance.

(8) Upon written request of the legislative body of any local government or the administrator at the expense of the requesting local government or the administrator, and payable in advance to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted. The findings of the examination shall be reported to the local government or the administrator. If after examination an additional amount of tax is found to be due, the cost of the examination by the department shall be shifted to the insurer, which shall reimburse the local government or the administrator. Willful failure to properly collect and remit the fee or tax imposed by a local government to the administrator shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(9) (a) License fees and taxes imposed by cities and urban-county governments and paid under the procedures in this section shall be administered by the Kentucky League of Cities. License fees and taxes imposed by counties and charter counties and paid under procedures in this section shall be administered by the Kentucky Association of Counties.

(b) Each local government imposing license fees or taxes shall be deemed to have designated, appointed, and authorized the administrator as its lawful agent to receive and administer license fees and taxes the local government has imposed. Tax payments by insurance companies to the administrator shall be deemed to have been received by the local governments on behalf of which taxes are remitted.

(c) Annually, on or before the last day of April, every insurance company authorized to do business in this Commonwealth and electing to remit license fees or taxes under the procedures in this section shall calculate and report to the administrator the license fees and taxes imposed upon it by each local government for the immediately preceding calendar year according to this section and shall remit to the administrator the amount, if any, by which a company's license fees and taxes for the year for any local government exceeds the estimated taxes it paid to that taxing authority for the year. All license fees and taxes imposed by each local government according to this section shall be reported by insurance companies to the administrator on a single annual return developed by the administrator and the Department of Insurance for annual filings by insurance companies. At the time of filing the annual return with the administrator, every insurance company electing to remit license fees or taxes under the procedures in this section shall file a duplicate copy of its annual return with the Department of Insurance. The annual return shall contain a breakdown of all collections for the preceding calendar year for the following categories of insurance for each local government:

1. Casualty;

2. Automobile;

3. Inland marine;

4. Fire and allied perils;

5. Health; and

6. Life.

(d) The administrator shall promptly account to each local government for all license fees and taxes paid by insurance companies and, on or before every June 30, shall remit to each governing body the amount, if any, by which the governing body's total license fees or taxes reported and paid by all insurance companies for the immediately preceding calendar year exceeds the quarterly estimated taxes previously allocated and remitted to

the governing body for the year under paragraph (e) of this subsection. If quarterly estimated taxes allocated and remitted to a local government for a calendar year exceed the governing body's total annual license fees or taxes reported and paid by all insurance companies for the calendar year, the administrator shall deduct the overpayment of quarterly estimated taxes from the next and succeeding remittances of quarterly estimated taxes under paragraph (e) of this subsection until the overpayment is fully recovered from the governing body.

(e) On or before every March 31, June 30, September 30, and December 31, every insurance company authorized to do business in this Commonwealth and electing to remit license fees or taxes under the procedures in this section shall pay quarterly estimated taxes to the administrator. The amount of the quarterly payment due on or before March 31 shall be one hundred four percent (104%) of the quarterly payment due on or before December 31 of the immediately preceding calendar year, and the amount of each quarterly payment due on or before June 30, September 30, and December 31 shall be twenty-six percent (26%) of the total annual license fees and taxes reported by the insurance company for all local governments on its annual return under paragraph (c) of this subsection for the immediately preceding calendar year. Quarterly payments received on or before the fifth business day after the due date shall be allocated and paid over to each local government imposing license fees or taxes on or before the last day of the calendar month following the due date. The amount of quarterly estimated taxes allocated and remitted to a governing body with respect to quarterly estimated taxes due on or before March 31 shall be determined on the same basis as the amount of quarterly estimated taxes allocated and remitted to governing bodies with respect to quarterly estimated taxes due on or before December 31 of the immediately preceding calendar year. The amount of quarterly estimated taxes allocated and remitted to a governing body with respect to quarterly estimated taxes due on or before June 30, September 30, and December 31 shall be in the same proportion to the total quarterly estimated taxes paid by all insurance companies for the quarter as the governing body's total annual license fees or taxes from all insurance companies for the immediately preceding calendar year is to the total annual license fees and taxes of all insurance companies payable to all local governments for the year. Quarterly payments received by the administrator after the fifth business day following the due date shall be held by the administrator and remitted with the following quarterly or annual payment.

(f) The administrator shall hold all amounts received by it from insurance companies electing to remit license fees or taxes under the procedures in this section, including interest or investment income earned on these funds, in a fiduciary capacity. All amounts held by the administrator shall be invested in accordance with the provision of KRS 66.480. All interest or investment income on funds in the administrator's accounts at the close of business on the fifth business day following any due date of quarterly estimated taxes shall be allocated and paid to local governments not later than the last day of the calendar month in which that fifth business day occurs. Nothing in this paragraph shall preclude the administrator from allocating and disbursing amounts received after the fifth business day at the end of the month in which the fifth business day occurs.

(g) Any overpayment of tax shown on the annual return of an insurance company filed under paragraph (c) of this subsection may be allowed as a credit against that company's succeeding payments of quarterly estimated taxes under paragraph (e) of this subsection until fully recovered. In the alternative, any insurance company reporting an overpayment of tax of one thousand dollars ($1,000) or more on its annual return under paragraph (c) of this subsection may request a refund of the overpayment in lieu of credits against quarterly estimated taxes payable under paragraph (e) of this subsection. A refund under this paragraph shall be requested on the annual return filed under paragraph (c) of this subsection and shall be paid by the administrator no later than four (4) months after the due date of the annual return or the date the annual return was received by the administrator, whichever is later. An insurance company that has ceased doing business in this Commonwealth may request a refund as provided in this paragraph without regard to the one thousand dollar ($1,000) threshold.

(h) The administrator shall recommend rules for adoption to the commissioner to provide for the orderly receipt and disbursement of license fees and taxes under this section. The rules shall provide for:

1. ***Accounting for the receipt and disbursement of license fees and taxes imposed by each local government upon insurance companies doing business in this Commonwealth;***
2. ***Allocating quarterly estimated taxes on the basis of the governing body's total annual license fees or taxes remitted for the immediately preceding calendar year as a percentage of total license fees and taxes remitted on behalf of all insurance companies to all local governments for the year; and***
3. ***Electronic reporting on annual returns.***

(i) The administrator may recommend additional rules for adoption to the commissioner to expedite the payment and transfer of license fees and taxes paid under the procedures in this section.

(j) The administrator shall report collections and disbursements of license fees and taxes to the Department of Insurance annually on or before July 31. The report shall cover all license fees and taxes collected and disbursed by the administrator for the preceding calendar year, including any interest or investment income

therein.

(k) Every insurance company electing to remit license fees or taxes under the procedures in this section and filing an annual return under paragraph (c) of this subsection shall pay to the administrator with the annual return a fee to defray the annual cost to the administrator of administering license fees and taxes imposed under the procedures in this section. The fee payable to the Kentucky League of Cities as administrator shall be the lesser of three hundred fifty dollars ($350) or five percent (5%) of the total taxable premiums reported for cities and urban-county governments on the annual return. The fee payable to the Kentucky Association of Counties as administrator shall be the lesser of one hundred seventy-five dollars ($175) or five percent (5%) of the total taxable premiums reported for counties or charter counties on the annual return. If the commissioner determines that the fees specified under this subsection are inadequate for funding the continued operations of the administrator, then he or she may increase the fees by up to one hundred fifty dollars ($150) for each administrator.

(10) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Interest payable to the administrator is separate of penalties provided for in subsection (8) of this section. All interest shall be accounted for or allocated to and paid to each local government whose taxes were not remitted on or before the due date. No local government or the administrator may impose any penalties other than those provided for in this subsection.

(11) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS 42.800 to 42.825.

(12) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies that pay ad valorem taxes.

(13) Insurance companies that pay license fees or taxes under this section shall credit city license fees or taxes against the same license fees or taxes levied by the county when the license fees or taxes are levied by the county on or after July 13, 1990.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply only to those insurance companies that have elected to remit license fees or taxes under the procedures in Section 4 of this Act.

(2) Every insurance company licensed to do business in this Commonwealth at any time during 2000 and electing to remit license fees or taxes under the procedures in Section 4 of this Act shall file with the Kentucky League of Cities and the Kentucky Association of Counties on or before February 28, 2001, an information return reporting with respect to calendar year 2000 the license fees and taxes reportable under subsection (9)(c) of Section 4 of this Act as if Section 4 of this Act had applied to premiums received and business transacted during calendar year 2000. On or before March 31, 2001, June 30, 2001, September 30, 2001, and December 31, 2001, every insurance company authorized to do business in this Commonwealth and electing to remit license fees or taxes under the procedures in Section 4 of this Act shall remit to the Kentucky League of Cities and the Kentucky Association of Counties twenty-six percent (26%) of the taxes reported on the February 28, 2001 return. Quarterly estimated taxes payable in 2001 shall be based upon the total amount of license fees and taxes for 2000 reported in the information returns required in this section to be filed with the Kentucky League of Cities and the Kentucky Association of Counties for business transacted during calendar year 2000. On or before April 30, 2001, July 31, 2001, October 31, 2001, and January 31, 2002, the Kentucky League of Cities and the Kentucky Association of Counties shall allocate and pay over to each local government quarterly estimated taxes received on or before the fifth business day of the month. The amount of quarterly estimated taxes allocated and remitted to a governing body shall be in the same proportion to the total quarterly estimated taxes paid by all insurance companies for the quarter as the governing body's total annual license taxes and fees for all insurance companies reported on information returns for 2000 under this section is to the total annual license fees and taxes of all insurance companies for all local governments reported on those returns. The Department of Insurance shall assist the Kentucky League of Cities and the Kentucky Association of Counties in the implementation and administration of Sections 1 to 9 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a Local Government Premiums Tax Administrator Advisory Council to review and advise the commissioner on any issues that may impact the operation of the administrator as established in Section 4 of this Act. The advisory council shall consist of eight (8) members: the chairman, who shall be the commissioner, and seven (7) members selected by the commissioner with the advice of the Kentucky League of Cities, the Kentucky Association of Counties, representatives of Kentucky insurance agents, and insurance industry representatives of companies electing to remit license fees or taxes under the procedures in Section 4 of this Act. Members of the advisory council may serve up to two (2) years at the sole discretion of the commissioner.

(2) Members selected by the commissioner shall be:

(a) One (1) representative of life and health insurers currently electing to remit license fees or taxes under the

procedures in Section 4 of this Act;

(b) One (1) representative of property and casualty insurers currently electing to remit license fees or taxes under the procedures in Section 4 of this Act;

(c) One (1) representative of Kentucky insurance agents;

(d) Two (2) member representatives of the Kentucky League of Cities; and

(e) Two (2) member representatives of the Kentucky Association of Counties.

(3) The advisory council shall:

(a) Review and advise on the design and plan of operations of the administrator;

(b) Review and advise on the filing process for all participating insurers;

(c) Review and advise on distributions of quarterly and annual taxes, including interest and investment income to local governments;

(d) Review and advise on the costs associated with the administrator;

(e) Review and advise on the efficiency and effectiveness of the administrator;

(f) Review and advise on the accuracy and adequacy on records maintained by the administrator;

(g) Review and advise on complaints and grievances from local governments and insurers regarding the administrator;

(h) Review and advise on administrative regulations concerning Sections 1 to 9 of this Act that may be promulgated by the Department of Insurance; and

(i) Review and advise on other issues at the request of the commissioner.

(4) The advisory council shall not be a budgetary unit of the Department of Insurance or the administrator. Members and their respective agencies or associations may, at their discretion, furnish office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of its functions.

(5) The administrator shall submit an annual report to the Department of Insurance and the advisory council. The annual report shall describe the general operations of the administrator from the previous year and operational plans for the coming year.

(6) The annual report shall include, but not be limited to:

(a) Audited financial statements for the immediately preceding two (2) years;

(b) Pro forma financial statements and underlying assumptions;

(c) Projected budget;

(d) Amendments to policies and procedures;

(e) Grievances;

(f) Legal proceedings;

(g) Management contracts, administrative contracts, cost-sharing contracts, and other material contracts;

(h) Any other additional information, documents, or materials that the administrator deems necessary or desirable for full and adequate disclosure; and

(i) Any other additional information, documents or materials that the commissioner or advisory council may request in writing.

(7) The advisory council shall meet at least once annually to review the operations of the administrator. The advisory council may make a report regarding the operations of the administrator. The commissioner of the Department of Insurance may accept or reject all or any part of the report.

(8) The sole function of the advisory council is to provide advice and guidance to the commissioner of the Department of Insurance regarding the structure and operations of the administrator. No member of the advisory council shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of the advisory council or any member thereof.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) To determine whether there has been any unauthorized, illegal, irregular, or unsafe handling or expenditure of local government tax receipts or other improper practice of financial administration and to assure that all proper items have been duly charged, taxed, accounted for, reported, and distributed to the appropriate local government, the Auditor of Public Accounts shall be responsible for an annual audit of the administrator as if it were a state agency. The audit shall consider:

(a) Funds contained in the administrator's accounts and budget; and

(b) Funds contained in any fiduciary or nonfiduciary qualified, segregated, or administered account.

(2) As appropriate under generally accepted auditing standards, the Auditor of Public Accounts may audit those aspects of the administrator's operations or the operations of the Kentucky League of Cities, the Kentucky Association of Counties, or any other third party contracting with the administrator that directly relates to administration of the tax.

(3) The Auditor of Public Accounts shall have access to all books, accounts, and papers of the administrator.

(4) Within a reasonable time after completion and distribution of audit reports authorized by subsections (1) and (2) of this section, the Auditor of Public Accounts shall bill the administrator for the expenses of the audit. A copy of the bill shall be forwarded to the commissioner. If within sixty (60) days following receipt of the bill, the commissioner determines the charge to be excessive or otherwise improper, he or she shall submit his or her objection to the secretary of the Finance and Administration Cabinet and to the State Treasurer for resolution in accordance with subsection (6) of this section. If the amount billed has not been paid within sixty (60) days from the date rendered and if no objection has been filed, the Auditor of Public Accounts shall notify the commissioner who shall cause one-half (1/2) of the amount to be deducted pro rata from the next payment or distribution of moneys to counties and municipalities under Section 4 of this Act. Deductions shall continue until one-half (1/2) of the amount due the Auditor of Public Accounts has been paid. All moneys received under this section shall be credited to the trust and agency account of the Auditor of Public Accounts. When an objection to a bill has been filed with the secretary of the Finance and Administration Cabinet and the State Treasurer in accordance with subsection (6) of this section, the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

(5) The administrator and the Department of Insurance shall each be responsible for paying one-half (1/2) of the final bill for the audit conducted in accordance with subsections (1) and (2) of this section.

(6) Any controversy over the amount of a bill for the actual expenses incurred by the Auditor of Public Accounts shall be submitted to the secretary of the Finance and Administration Cabinet and the State Treasurer for a final decision as to the proper amount.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The administrator shall file with the commissioner a blanket faithful performance bond issued by an authorized corporate surety that shall be conditioned upon the faithful performance of the requirements of the administrator as set forth in Sections 1 to 9 of this Act and in any administrative regulations promulgated and shall cover acts of employee dishonesty. The performance bond shall be for the benefit of, and payable to, the local governments imposing taxes and fees paid under the procedures in Section 4 of this Act. The commissioner shall disapprove any bond if he or she determines that the coverage is inadequate, the limits are inadequate, the surety is inadequate, or the corporate surety is not rated in one (1) of the three (3) highest rating categories by a nationally recognized rating agency.

(2) The corporate surety shall not terminate the bond required by subsection (1) of this section without prior written approval of the commissioner. The corporate surety shall deliver written notice of termination to the administrator and shall file the notice of termination with the commissioner for approval or disapproval at least thirty (30) days prior to the intended date of termination.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Except as provided in Sections 1 to 9 of this Act, Section 5 of this Act shall apply to premiums received and business transacted on or after January 1, 2001. If the commissioner determines that an insufficient number of insurance companies has made an election to be subject to Section 4 of this Act prior to August 31, 2000, he or she may suspend or revoke the effectiveness of the elections of all insurance companies making an election to be subject to Section 4 of this Act until the commissioner finds there is a sufficient number of insurance companies to adequately fund the administrator. If the commissioner suspends or revokes the effectiveness of all the elections under Sections 1 to 9 of this Act, he or she shall do so by administrative order, and the order shall specify whether companies may be required to make new elections at a later date and may contain any other terms that the commissioner deems reasonable for efficient implementation of Sections 1 to 9 of this Act. Every insurance company electing under this section to remit license fees or taxes under the procedures in Section 4 of this Act shall remit with its election under this section a one-time fee to defray the administrator's costs in establishing procedures for the receipt and distribution of license fees or taxes under Section 4 of this Act. The amount of the one-time fee payable under this section shall be as prescribed in subsection (9)(k) of Section 4 of this Act except that the percentage of premiums limitation shall be based on an insurance company's municipal and county premiums reported under KRS 91A.080 for calendar year 1999. If the commissioner suspends or revokes insurance company elections, any fees paid with the filing of the election shall be refunded.

Section 10. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by *ordinance*[~~order or resolution~~] impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

1. For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

2. For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

(5) On the effective date of this Act, the provisions of subsection (4) of this section notwithstanding, city license fees not credited against county license fees, enacted under this section or KRS 67.083, as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

(6) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 11. The Advisory Committee on City and County Relations is hereby established. The Advisory Committee's membership shall include:

(a) Two (2) members of the Senate appointed by the President of the Senate;

(b) Two (2) members of the House of Representatives appointed by the Speaker of the House of Representatives;

(c) The secretary of the Revenue Cabinet, or the secretary's designee;

(d) The commissioner of the Department for Local Government, or the commissioner's designee;

(e) Six (6) city officials appointed by the governing body of the Kentucky League of Cities;

(f) Two (2) county officials appointed by the governing body of the Kentucky Association of Counties;

(g) Two (2) county judge/executives appointed by the governing body of the Kentucky County Judge/Executive Association; and

(h) Two (2) county magistrates appointed by the governing body of the Kentucky County Magistrates Association.

(2) The chair and co-chair shall be appointed by the Legislative Research Commission.

(3) The appointments in paragraphs (e) to (h) of subsection (1) of this section shall be subject to the approval of the Legislative Research Commission.

(4) (a) The Advisory Committee on City and County Relations shall examine the issues and problems facing the Commonwealth's cities and counties. These issues and problems include, but are not limited to:

1. Overlapping, inefficient service delivery;
2. Identification of the principal beneficiaries of local government services;
3. Allocation of taxing authority; and
4. Identification of various city and county tax bases.

(b) The Advisory Committee on City and County Relations may make specific recommendations concerning, but not limited to, the following:

1. Recommendations for allocating future service responsibilities between cities and counties; and
2. Recommendations regarding the allocation of taxing authority between cities and counties, based on assigned service responsibilities.

Section 12. The Advisory Committee on City and County Relations, established under Section 11 of this Act, shall report its findings to the Legislative Research Commission no later than August 1, 2001.

Section 13. Provisions of Section 11 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified in Section 11 of this Act to an interim joint committee or subcommittee thereof, and to designate a study completion date.".

Floor Amendment No. 1 to **SB 73**, by Representative Upchurch:

On page 1, after line 10 by adding the following:

"Section 2. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning

operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;[~~ and~~]

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247***;***

(25) "Manufactured home" means a single-family residential dwelling as defined in KRS 227.550;

(26) "Qualified manufactured home" means a manufactured home that meets all the criteria in paragraphs (a) to (g) of this subsection. A qualified manufactured home:

  (a) Is manufactured after January 1, 2000, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code;

  (b) Is affixed to a permanent foundation, is connected to the appropriate facilities, and is installed in compliance with KRS 227.570;

  (c) Has a width of at least twenty-two (22) feet at its smallest width measurement, or is two (2) stories in height, and is oriented on the lot or parcel so that its main entrance door faces the street;

  (d) Has a minimum total living area of nine hundred (900) square feet;

  (e) Has a minimum roof pitch of a four (4) foot rise to a twelve (12) foot run;

  (f) Has conventional residential siding and a minimum of a six (6) inch eave overhang; and

  (g) Is not located in a manufactured home park; and

(27) "Permanent foundation" means a permanent masonry, concrete, or locally approved footing or foundation, excluding temporary blocks, to which a manufactured home may be affixed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section and Section 4 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulations or ordinances relating to a mobile home.

(2) Cities, counties, urban-county governments, and charter county governments shall not adopt or enforce zoning or other land use regulations or ordinances that exclude qualified manufactured homes from those cities, counties, urban-county governments, or charter county governments, or that differentiate qualified manufactured homes within those cities, counties, urban-county governments, or charter county governments that are sited on a permanent foundation, as defined in subsection (27) of Section 2 of this Act, from other residential housing solely because the qualified manufactured homes are either built in a factory or are not built on-site.

(3) Cities, counties, urban-county governments, and charter county governments may adopt regulations concerning the size, aesthetics, and architectural design of a qualified manufactured home so that the special character of neighborhoods, including historic preservation districts, may be maintained. Nothing in this section limits the ability of cities, counties, urban-county governments, or charter county governments to adopt zoning or land use regulations or ordinances that affect residential housing other than as prescribed in subsection (2) of this section or to require a final inspection of any manufactured home for the purpose of ensuring that no damage has occurred during transportation or assembly of the manufactured home that could compromise its structural integrity.

Section 4. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

(a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

(b) The size, width, height, bulk, location of structures, buildings and signs;

(c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

(d) Intensity of use and density of population floor area to ground area ratios, or other means;

(e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

(f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

(g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

(a) Setback lines may be required for the protection of existing and proposed streets and highways;

(b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

(c) ***Manufactured homes,*** mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced***; and***

(9) Nothing in this chapter shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that excludes qualified manufactured homes, as defined in Section 2 of this Act, from locating within the boundaries of the city, county, urban-county government or charter county government, or differentiates qualified manufactured homes, as defined in Section 2 of this Act, from other single-family residential dwellings contrary to the provisions contained in Sections 2, 3, and 4 of this Act.".

Floor Amendment No. 2 to **SB 73**, by Representative Upchurch:

On page 1, after line 10 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that excludes manufactured homes, as defined in KRS 227.550, from locating within the boundaries of the city, county, urban-county government or charter county government, or differentiates manufactured homes, as defined in KRS 227.550, from other single-family residential dwellings.".

Floor Amendment No. 3 Title to **SB 73**, by Representative Upchurch:

Amend title to read as follows: "AN ACT relating to local governments."

Floor Amendment No. 2 to **SB 309**, by Representative Yonts:

On page 1, delete lines 19, 20, and 21 in their entirety and insert in lieu thereof "***the trust so long as the trust dictates but in no event longer than one hundred fifty (150) years.***"; and

On page 1, line 22, delete "***Subject to***" and insert in lieu thereof "***Notwithstanding***".

Floor Amendment No. 16 to **SB 74**, by Representative Cox:

On page 3, after line 26 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

No local government may, by present or future ordinance, order, resolution, or other mechanism, legislate in the field of civil rights, regardless of whether the area of legislation is one encompassed or not encompassed by the provisions of this chapter, other applicable state law, or federal law. However, this prohibition shall not be construed to prohibit the local government from regulating itself so as to comply with state or federal civil rights laws."

Floor Amendment No. 2 to **SB 72**, by Representative Upchurch:

On page 1, after line 14 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that excludes manufactured homes, as defined in KRS 227.550, from locating within the boundaries of the city, county, urban-county government or charter county government, or differentiates manufactured homes, as defined in KRS 227.550, from other single-family residential dwellings.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 11**, by Representative Westrom:

On page 223, after line 27, by adding the following:

"SECTION 192. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that deceptive promotional advertising of prizes and sweepstakes is a matter affecting vital public

interests for the purpose of applying the Consumer Protection Act, KRS Chapter 367. The General Assembly further finds that the public health, welfare, and interest require a strong and effective law regarding deceptive promotional advertising of prizes and sweepstakes in order to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services.

SECTION 193. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 192 to 197 of this Act:

(1) "Promotional offer" means any mailing or written communication directed to a specific address or named individual used to induce or invite a recipient to claim a prize or enter a drawing or sweepstakes.

(2) "Person" means a natural person, partnership, corporation, trust, estate, association, cooperative, or other legal entity whether for profit or not for profit.

(3) "Prize" means any item or service of tangible value offered or awarded without obligation or consideration in a drawing, sweepstakes, or other game of chance to persons responding to a promotional offer.

(4) "Recipient" means any person who has received or is intended to receive a promotional offer; and

(5) "Pseudo-check" means a document that has visual characteristics similar to, but is not actually, a negotiable instrument or currency. The term does not include clearly marked samples or specimens of negotiable instruments used to solicit orders for the purchase of preprinted negotiable instruments.

SECTION 194. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A promotional offer shall clearly and conspicuously disclose on the same page in which a prize is first mentioned in at least twelve (12) point type:

(a) The name, mailing address, and street address of the person making the promotional offer;

(b) The verifiable fair market value of each prize offered;

(c) The fact that no purchase is necessary to enter the promotion; and

(d) The date the prize winners will be selected.

(2) A promotional offer shall disclose the recipient's estimated odds of winning a prize if an element of chance is involved, expressed using Arabic numerals as a ratio of the total numbers of each prize relative to the total number of offers distributed. All disclosures required by this subsection shall be printed immediately proximate to and on the same page as the first mention of the prize and shall utilize a typeface the same color as and no smaller than that utilized to mention the prize being offered. Subsequent mentions of a prize shall not utilize a type size larger than that used for the first mention of the prize.

(3) Any promotional offer mentioning a prize shall include a separate form, or a designated place on the regular order form, allowing the recipient to:

(a) Enter the promotion on the same terms as a person making a purchase without actually having to purchase a product or service; and

(b) Have the recipient's name removed from the mailing list of the person making the promotional offer, during which time the recipient will not receive future promotional offers at the recipient's address for five (5) years after return of the form, unless the recipient later makes a written request to be put back on the mailing list.

(4) Advertisements, mailings, or other written communications offering an invitation to enter a drawing or sweepstakes that are made by a retail business having a permanent physical retail location in Kentucky, or by a person supplying products directly or indirectly to that business for retail sale, to promote the sale of the business's retail products shall be exempt from the provisions of this section if no purchase is necessary for entry and either of the following applies:

(a) A majority of the drawings, redemptions, or prize awards occur at the retailer's permanent physical retail location in Kentucky; or

(b) A majority of the entries submitted by Kentucky residents are submitted at the retailer's permanent physical retail location in Kentucky.

SECTION 195. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A promotional offer shall not:

(1) State, represent, or imply that a recipient has won a particular prize unless the recipient has won that prize;

(2) State, represent, or imply that a recipient has a special status or relationship to the person making the promotional offer unless that recipient has such a special status or relationship;

(3) Require that a prize entry be accompanied by a payment for a product or service ordered;

(4) Use a pseudo-check unless the pseudo-check contains a statement printed in at least twelve (12) point type diagonally across its face that it is not a negotiable instrument and has no cash value;

(5) Use documents, lettering, forms, names, titles, or symbols resembling those of state or federal government agencies;

(6) State, represent, or imply that the purchase of a product or service will allow a prize entry to receive priority, make the recipient eligible to receive additional prizes or special treatment for future promotional offers, or that the purchase will affect the recipient's odds of winning a prize.; or

(7) Use a fictitious person or name for officials, employees, agents, or representatives of the person making the promotional offer.

SECTION 196. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a violation of any provision of Sections 192 to 197 of this Act may bring an action in a court of competent jurisdiction against the violator. If the court finds that the defendant has violated any provision of Sections 192 to 197 of this Act, it shall enjoin the defendant from a continuation thereof and award the plaintiff a reasonable attorneys fee. Additionally, if the court finds that the defendant willfully violated any of the provisions of Section 195 of this Act, the plaintiff shall be entitled to recover three (3) times the amount of any actual damages sustained or three (3) times the fair market value of a prize represented to have been awarded to the recipient, whichever is greater. Nothing in this subsection shall abridge any rights to recover punitive damages or to proceed against the violator under any other provision of law.

(2) Any recipient bringing an action under this section must bring the action within one (1) year after any action of the Attorney General has been terminated or within two (2) years after the violation of Sections 192 to 197 of this Act, whichever is later. However, the time limits set out in this subsection may be tolled in the same manner as other causes of action as set out in KRS 413.170.

SECTION 197. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A violation of Sections 192 to 197 of this Act by any person making a promotional offer shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts and practices declared unlawful by Sections 192 to 197 of this Act.

(3) Nothing in Sections 192 to 197 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

(4) The Attorney General may promulgate administrative regulations reasonable or necessary to carry out the purposes and intent of Sections 192 to 197 of this Act.

Section 198. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Any person who willfully violates any of the provisions of Section 195 of this Act shall be guilty of a Class D felony."

Floor Amendment No. 3 Title to **SB 11**, by Representative Westrom:

Amend title to read as follows: "AN ACT relating to commerce."

Floor Amendment No. 3 to **SB 163**, by Representative Nesler:

On page 6, between lines 25 and 26 by inserting the following:

"Section 3. KRS 95.871 is amended to read as follows:

The board shall have, in addition to other duties arising out of KRS 95.851 to 95.884 and KRS 95.991, the following duties:

(1) Establish and maintain an office in the facilities provided by the city for the meetings of the board and the keeping of the books, accounts, and records of the fund; hold regular meetings at least quarterly, and ~~[such]~~ special meetings as may be

deemed necessary; and keep a full record of all of its proceedings, which shall be open to inspection by the public.

(2) Provide for the installation of a system of accounts and records that will give full effect to the requirements of KRS 95.851 to 95.884 and KRS 95.991; adopt all necessary actuarial tables to be used in the operation of the fund; and provide for the compilation of [~~such~~] statistical and financial data as may be required for actuarial valuations, periodic surveys, and calculations.

(3) Obtain [~~such~~] information from the participating members and the city as shall be necessary for the proper operation of the fund.

(4) Consider and pass upon all applications for annuities, benefits, refunds and other payments, and authorize the expenditure for such purposes, in accordance with the provisions hereof. The board ***of trustees of the fund*** shall have authority to promulgate ***administrative regulations in accordance with the provisions of KRS Chapter 13A***[~~such rules and regulations~~], not inconsistent with the provisions of KRS 95.851 to 95.884 and KRS 95.991, necessary for the proper determination of all claims before it.

(5) The board of trustees of the pension fund may, if the board of trustees is deadlocked on a particular matter, select a neutral third party to arbitrate the deadlocked matter. This neutral third party shall be selected by a majority vote of the members of the board of trustees of the pension fund. The decision of the neutral third party shall be final and binding on parties and matters involved in the dispute.

(6)[~~(5)~~]Accept any gift, grant, or bequest of any money or property of any kind, for the purposes designated by the grantor if ***the***[~~such~~] purposes are specified as providing cash benefits to some or all of the members or annuitants of the fund; if no [~~such~~] purposes are designated, ***the gift, grant, or bequest of any money or property***[~~the same~~] shall be credited to the account representing income from investments.

(7)[~~(6)~~]Have the accounts of the fund audited as of the end of each fiscal year, by a competent accountant, and submit an annual report to the city as soon as possible following the close of the year, embodying, among other things, a balance sheet showing the financial and actuarial condition of the fund, a statement of income and expenditures for the year, a statement showing changes in the asset, liability, and reserve accounts during the year, a statement of investments owned by the fund, detailed statements of investments acquired and disposed of during the year, and [~~such~~] other financial or statistical data as are necessary for a proper interpretation of the condition of the fund and the results of its operations. The board shall also cause to be published for distribution among the members a synopsis of ***this***[~~such~~] report." and by renumbering subsequent sections to conform.

Floor Amendment No. 1 to **SB 36**, by Representative C. Belcher:

On page 2, line 8, by inserting "***, any reasonable bad check fee charged by the holder's bank,***" after the first use of the word "fee".

Floor Amendment No. 2 to **SB 36**, by Representative C. Belcher:

On page 2, lines 12 and 13, by deleting all underlined language and by removing all brackets and strikethroughs.

Floor Amendment No. 5 to the House Committee Substitute to **SB 279**, by Representative Treesh:

On page 16, by inserting the following after line 9:

"SECTION 20. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) No pharmacist, who states in writing, based on moral, religious, or professional grounds, his or her objection to the dispensing of medication or devices that may terminate a pregnancy, shall be required to or be held liable for refusal to perform or participate in the dispensing of medications or devices that may terminate a pregnancy.

(2) It shall be an unlawful discriminatory practice for:

(a) Any person to impose penalties, take disciplinary action against, or deny or limit public funds, licenses and certification degrees, or other approvals or documents of qualification to any pharmacist for his or her refusal, based on objections of moral, religious, or professional grounds to participate and cooperate in the dispensing of any medication or device that may terminate a pregnancy; and

(b) Any public or private agency, institution, person, including a medical, nursing, or other school, or hospital to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any pharmacist on account of his or her willingness or refusal to dispense or distribute medication or devices that may terminate pregnancy, where the refusal is based on moral, religious, or professional grounds.".

Floor Amendment No. 6 Title to **SB 279**, by Representative Treesh:

By amending the title to read as follows:
"AN ACT relating to health care."

Floor Amendment No. 2 Title to **SB 324**, by Representative Treesh:

By amending the title to read as follows:
"AN ACT relating to health care.".

Floor Amendment No. 1 to **SB 23**, by Representative Cherry:

On page 3, after line 23, by adding the following:

"Section 2. KRS 242.185 is amended to read as follows:

(1) This section shall apply to any city of the fourth class or county containing a city of the fourth class in which prohibition is not in effect, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.

(2) Upon a determination by the legislative body that an economic hardship exists within the city or county and that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(3) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

(4) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of this section, provided that any regulation adopted shall conform to the requirements of KRS 241.190.

(5) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.070, the city or county may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory or administrative related expenses. ***The***[~~Such~~] regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against ***the***[~~such~~] fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.070.

(6) In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a city or county in which prohibition is in effect may, by petition in accordance with KRS 242.020, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food. The election shall be held in accordance with KRS 242.030(1), (2), and (5), 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?". If the majority of the votes in an election held pursuant to this subsection are "Yes", licenses may be issued to qualified restaurants and dining facilities and the licensees may be regulated and taxed in accordance with subsections (4) and (5) of this section.".

Floor Amendment No. 1 to **SB 324**, by Representative Treesh:

On page 3, after line 2, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No person, who states in writing, based on moral, religious, or professional grounds, his or her objection to the dispensing of medication or devices that may terminate a pregnancy, shall be required to or be held liable for refusal to perform or participate in the dispensing of medications or devices that may terminate a pregnancy.

(2) It shall be an unlawful discriminatory practice for:

(a) Any person to impose penalties, take disciplinary action against, or deny or limit public funds, licenses and certification degrees, or other approvals or documents of qualification to any person for his or her refusal,

based on objections of moral, religious, or professional grounds to participate and cooperate in the dispensing of any medication or device that may terminate a pregnancy; and

(b) Any public or private agency, institution, person, including a medical, nursing, or other school, or hospital to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate against any applicant for admission thereto or any person on account of his or her willingness or refusal to dispense or distribute medication or devices that may terminate pregnancy, where the refusal is based on moral, religious, or professional grounds.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 331: Representative Cornett

HB 852: Representative Hoffman

Representative Cave moved that LRC employees be required to adhere to House Rules.

Announcements

The following meetings were announced:

Judiciary, March 23, 2000, 1:00 p.m.

Licensing and Occupations, March 22, 2000, upon adjournment

Appropriations and Revenue, March 22, 2000, upon adjournment

State Government, March 23, 2000, 11:30 a.m., Room 149

Local Government, March 23, 2000, 9:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 23, 2000.

The motion that the House adjourn until 2:00 p.m., March 23, 2000, was adopted by voice vote.

MARCH 23, 2000

FIFTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend James Stillwell, Immanuel Baptist Church, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 22, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Collins moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Collins moved the adoption of the following **Legislative Citation No. 138**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends the Johnson County Middle School Academic Team which won the 2000 Ashland Inc. Governor's Cup State Finals, claiming Championship Honors for the second consecutive year, and which also captured First Place Honors in the Future Problem Solving Competition. Inasmuch as this group of exemplary young scholars have demonstrated commendable hard work and laudable dedication to academic excellence by the effort put forth in this worthy endeavor, the members of this distinguished body are delighted to join Representative Hubert Collins in applauding the stellar accomplishments of this remarkable academic team and in extending best wishes for continued success. Done in Frankfort, this twenty-third day of March, in the year two thousand.

Legislative Citation No. 138 was adopted without objection.

Introduction of Resolutions

HR 177, by Representative Graham: A RESOLUTION recognizing Lindsey K. Marks as the Miss Capital City representative in the 2000 Miss Kentucky Scholarship Pageant.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Health and Welfare: **SB 310, SB 321**

Judiciary: **SB 302**

Local Government: **SB 332**

House Floor: **HR 174, HR 176**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Resolutions have been posted for Committee consideration:

Health and Welfare: **HR 170, HR 166, HR 169**

Report of Committees

The Committee on Licensing and Occupations reported **SB 247** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute No. 1 to **SB 247** is as follows:

SB 247, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter ***and in KRS Chapters 242 and 243***, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products~~[if they are unfit for use for beverage purposes]~~:

- (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
- (b) Patented, patent, and proprietary medicines;
- (c) Toilet, medicinal, and antiseptic preparations and solutions;
- (d) Flavoring extracts and syrups;
- (e) Denatured alcohol or denatured rum;
- (f) Vinegar and preserved sweet cider;
- (g) Wine for sacramental purposes;
- (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
- (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(8) "Cabinet" means the Revenue Cabinet unless the context requires otherwise.

(9) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(10) "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(11) "City administrator" means city alcoholic beverage control administrator.

(12) "Commissioner" means the commissioner of alcoholic beverage control.

(13) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(14) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(15) "County administrator" means county alcoholic beverage control administrator.

(16) "Department" means the Department of Alcoholic Beverage Control.

(17) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(18) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(19) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(20) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(21) "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(22) "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(23) "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(24) "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(25) "License" means any license issued pursuant to KRS 243.020 to 243.670.

(26) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(27) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(28) "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(29) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(30) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(31) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(32) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(33) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(34) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers and that has a bona fide kitchen facility.

(35) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(36) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(37) "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(38) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(39) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(40) "Secretary" means the secretary of the Kentucky Revenue Cabinet.

(41) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(42) "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(43) "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(44) "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(45) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(46) "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(47) "Warehouse" means any place in which alcoholic beverages are housed or stored.

(48) "Wholesale sale" means a sale to any person for the purpose of resale.

(49) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(50) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(51) "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 2. KRS 241.200 is amended to read as follows:

Appeals from the orders of each city administrator may be taken to the board by filing with the board within thirty (30) days a certified copy of the orders of the city administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the city administrator shall be governed by KRS ***Chapter 13B***[~~243.550 to 243.590~~].

Section 3. KRS 241.260 is amended to read as follows:

Appeals from the orders of each urban-county administrator may be taken to the board by filing with the board within thirty (30) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS ***Chapter 13B***[~~243.550 to 243.590~~].

SECTION 4. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Section 5. KRS 242.1297 is amended to read as follows:

Notwithstanding any law to the contrary, a precinct located in a city of the third class where the entire city is wet territory, may have an election to take the sense of the voters of the precinct on the application of KRS 242.220 to 242.430 in the precinct. The election shall be held in the precinct in the manner prescribed in KRS ***242.020***[~~242.010~~] to 242.040 and KRS 242.060 to 242.120. The election shall not be deemed to be an election in the "same territory" within the meaning of KRS 242.030(5); however, no election shall be held in the same precinct more often than once every five (5) years. The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"

Section 6. KRS 242.240 is amended to read as follows:

A person shall not sell or give any of the articles listed in KRS ***241.010(2)(a) to (e) and 241.010(h)***[~~242.010(2)(a) to (h)~~] as not within the definition of alcoholic beverages, knowing that, or under such circumstances that, the seller or giver might reasonably deduce that the purchaser or person to whom the article is given intends to use it for beverage purposes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires, the words and terms defined in KRS 241.010 have the meaning given to them in KRS 241.010.

Section 8. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)		Distiller's license, per annum	$2,500.00
(2)		Rectifier's license, per annum	$2,500.00
(3)		Blender's license, per annum	$2,500.00
(4)		Vintner's license, per annum	$1,000.00
(5)		Small winery license, per annum	$100.00
	(a)	Small winery off-premises retail license, per annum	$25.00
(6)		Wholesaler's license, per annum	$2,000.00
(7)		Retail package license, per annum:	
	(a)	In counties containing cities of the first class	$800.00
	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	In all other counties	$400.00
(8)		Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a)	In counties containing cities of the first class	$1,000.00
	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	***The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.***	
(9)		Transporter's license, per annum	$100.00
(10)		Dining car license, per annum	$100.00
(11)		Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)		Special industrial alcohol license, per annum	$50.00
(13)		Special nonindustrial alcohol license, per annum	$50.00
(14)		Special agent's or solicitor's license, per annum	$25.00
(15)		Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)		Special temporary liquor license, per event	$100.00
(17)		Special private club license, per annum	$300.00
		The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.	
(18)		Special Sunday retail drink license, per annum	$500.00
(19)		Nonresident, special agent or solicitor's license, per annum	$100.00
(20)		Transport permit, nonresident license, per annum	$100.00
(21)		Through transporter's license, per annum	$100.00
(22)		Freight forwarder's license, per annum	$100.00
(23)		Restaurant wine license, per annum	$500.00
(24)		Farm winery license, per annum	$100.00
	(a)	Farm winery, off-premises retail outlet license, per annum	$25.00
(25)		Special temporary wine license, per event	$50.00
(26)		Caterer's license, per annum	$800.00

(27)	Souvenir retail liquor license, per annum	$500.00
(28)	Special temporary distilled spirits and wine auction license, per event	$100.00
(29)	Airport drink license, per annum	$1,000.00
(30)	Convention center or convention hotel complex license, per annum	$5,000.00
(31)	Extended hours~~[,]~~ supplemental license, per annum	$2,000.00
(32)	Horse race track license, per annum	$2,000.00
(33)	Air or rail system license, per annum	$2,000.00
(34)	Riverboat license, per annum	$1,000.00
(35)	Bottling house license, per annum	$1,000.00
(36)	Hotel in-room license, per annum	$200.00
(37)	Bonded warehouse license, per annum	$1,000.00
(38)	Air transporter liquor license, per annum	$500.00
(39)	Replacement or duplicate license	$25.00

(40) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (39). The application fee shall be applied to the licensing fee if the ***license***~~[application]~~ is issued***; otherwise it***~~[and]~~ shall be retained by the department~~[if the license is denied]~~.

Section 9. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1)	Brewer's license, per annum	$2,500.00
(2)	Microbrewery license, per annum	$500.00
(3)	Distributor's license, per annum	$500.00
(4)	Malt beverage retail license, per annum:	
	(a) New applicants	$200.00
	(b) Renewals	$150.00
(5)	Dining car license, per annum	$200.00
(6)	Transporter's license, per annum	$100.00
(7)	Special temporary license, per ***event***~~[month or part of month]~~	$50.00
(8)	Special off-premises retail storage license, per annum	$100.00
(9)	Distributor's storage, per annum	$250.00
(10)	Special beer transporter's license, per annum	$100.00
(11)	Brew-on-premises license, per annum	$500.00
(12)	Out-of-state brewer license, per annum	$1,500.00
(13)	Malt beverage warehouse license, per annum	$1,000.00
(14)	Replacement or duplicate license, per annum	$25.00

(15) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee ***if***~~[when]~~ the ***license***~~[application]~~ is issued, or ***otherwise the fee shall be*** retained by the department~~[if the license is denied]~~.

Section 10. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly-scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly-scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.

(4) The department may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license ***shall be***~~[is]~~ required, where applicable. An~~[applicant for the license shall meet the qualifications of KRS 243.055, and an]~~ extended supplement license under subsection (5) of this section may ***also*** be issued ***where applicable***. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class, if the original license was issued prior to July 15, 1998.

(5) Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, and at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may, by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry, and passengers at large commercial airports.

Section 11. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. ***Only those licenses set out in this section shall be issued, and the fee for each shall not exceed the specified amount***~~[The licenses may only be issued by the city administrator, and the fee shall not exceed the following]~~:

(1) Distilled spirit licenses as set forth in KRS 243.030:

(a) Distiller's license, per annum $500.00

(b) Rectifier's license, per annum $3,000.00

(c) Blender's license, per annum $3,000.00

(d) Wholesaler's distilled spirits and wine license, per annum $3,000.00

(e) Distilled spirits and wine retail package license, per annum:

1. In counties containing cities of the first class $1,200.00
2. In counties containing cities of the second class $1,000.00
3. In counties containing cities of the third class $800.00
4. In counties containing cities of the fourth class $600.00
5. In all other counties $400.00

(2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:

	(a)	In counties containing cities of the first class	$1,600.00
	(b)	In counties containing cities of the second class	$1,000.00
	(c)	In counties containing cities of the third class	$800.00
	(d)	In counties containing cities of the fourth class	$600.00
(3)		Distilled spirits and wine special temporary liquor license, per event:	
	(a)	In counties containing cities of the first class	$266.66
	(b)	In counties containing cities of the second class	$166.66
	(c)	In counties containing cities of the third class	$133.33
	(d)	In counties containing cities of the fourth class	$100.00
(4)		Special temporary wine license, per event	$50.00
(5)		Distilled spirits and wine special temporary auction license, per event	$200.00
(6)		Special private club license, per annum	$300.00
(7)		Distilled spirits and wine special Sunday retail drink license, per annum	$300.00
(8)		Extended hours supplemental license, per annum	$2,000.00
(9)		Nonresident special agent or solicitor's license, per annum	$40.00
(10)		Restaurant wine license, per annum:	
	(a)	New applicants	$600.00
	(b)	Applicants for renewal	$400.00
(11)		Caterer's license, per annum	$800.00
(12)		Riverboat license, per annum	$1,200.00
(13)		Horse race track license, per annum	$2,000.00
(14)		Convention center or convention hotel complex license, per annum	$2,000.00
(15)		Bottling house distilled spirits license or wine storage license, per annum	$1,000.00
(16)		Souvenir retail liquor license, per annum	$1,000.00
(17)		Malt beverage licenses as follows:	
	(a)	Brewer's license, per annum	$500.00
	(b)	Microbrewery license, per annum	$500.00
	(c)	Malt beverage distributor's license, per annum	$400.00
	(d)	Retail malt beverage license, per annum	$200.00
	(e)	Special temporary retail malt beverage license, per event	$25.00
	(f)	Malt beverage brew-on-premises license, per annum	$100.00

Section 12. KRS 243.360 is amended to read as follows:

(1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for ***an out-of-state brewer's license, supplemental bar license, extended hours supplemental license,*** a special agent or solicitor's license, a bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license, a storage warehouse license, a nonbeverage~~[alcohol]~~ license, a vendor license, a transporter's license, a Sunday license, or a temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.

(2) The notice shall conform in all material respects to the following requirements:

(a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;

(b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and

(c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverages, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."

(3) ~~[A license shall not be issued until the thirty (30) day period in which a protest is permissible has expired.]~~Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

Section 13. KRS 243.430 is amended to read as follows:

(1) The state administrator may reject any application for a license issued under KRS 243.030 and 243.040 if the application is incomplete or the correct fee has not been remitted with the application. In rejecting an application, the state administrator shall provide a written statement of the deficiencies contained in the application.

(2) A license ***shall not be issued until the thirty (30) day period in which a protest is permissible has expired. Any license*** for which public notice under KRS 243.360 is required ***may conditionally***~~[shall not]~~ be issued in less than thirty (30) days from the date the application is ***received if the premises has previously operated under the same type of license within the last twelve (12) months***~~[substantially complete, except the renewal of the license may be issued upon receipt of all necessary information by the state administrator with jurisdiction over the license]~~. All remaining licenses provided for in KRS 243.030 ***or Section 9 of this Act*** shall be issued when, in the sound discretion of the~~[distilled spirits]~~ administrator, all of the information necessary has been obtained.

Section 14. KRS 243.540 is amended to read as follows:

(1) ***The provisions of this section shall apply to any licensee who is unable to continue in business at the license premises because of an act of God; a casualty; an acquisition by a federal, state, city, or other governmental agency under the power of eminent domain granted to the government or agency; a voluntary or involuntary acquisition by any private corporation through the corporation's power of eminent domain; a loss of lease because the landlord fails to renew an existing lease; court action; or other verifiable business reason***~~[If a license issued under KRS 243.020 to 243.670 is revoked, voluntarily surrendered, or subject to disposition by a court, or is not renewed by the licensee, or if an act of God requires the relocation or closure of the licensee's business, the licensee's inventory shall be disposed of in accordance with the requirements set out in this section]~~.

(2) If a license issued by the department has been revoked, the former licensee may, under the supervision of the state administrator, dispose of and transfer his or her stock to another licensee if the disposition is completed within ninety (90) days and the licensee is a distiller, rectifier, vintner, or brewer. The disposition shall be completed within thirty (30) days if the licensee is a wholesaler or distributor or within twenty (20) days if the licensee is a retailer.

(3) ~~[If]~~A retail licensee in good standing with the department ***who*** voluntarily ceases to operate his or her business ***for any reason other than revocation by the board or a court order shall dispose of all alcoholic beverage inventory within thirty (30) days of the event.***~~[,]~~ The following requirements shall apply to the disposition of the licensee's inventory:

(a) If the premises is still open to the public and the licensee has not yet surrendered the license, the licensee shall sell alcoholic beverages only to the public and shall not sell below costs;

(b) If a licensee has terminated his or her business and has surrendered his or her license to the department, he or she shall submit a written request for approval from the state administrator within ten (10) days in advance of the sale to dispose of the licensee's remaining inventory. The request shall identify the retailer who is purchasing the inventory, the proposed date of the sale, and the quantity, types, and brands of alcohol to be sold; and

(c) If a licensee has more than one (1) licensed retail premises and closes one (1) or more retail premises and seeks to transfer his or her inventory to another licensed retail premises he or she owns, he or she shall submit a request in writing to the state administrator at least ten (10) days before the inventory is transferred. The request shall identify the premises to which the alcohol is being transferred, the proposed date of the transfer, and the quantity, types, and brands of alcohol to be sold.

(4) If a retail licensee files for bankruptcy or is directed by a court to dispose of inventory to satisfy a lien or judgment, the inventory may be sold only to a retail alcoholic beverage licensee. The bankrupt licensee or the licensee subject to the court order shall notify the department of the sale and shall attach a copy of the court order or the judgment directing the sale and a list of the quantity, types, and brands of alcohol to be sold. Any licensee who purchases the inventory shall notify the department within five (5) days after the transfer of the specific inventory sold.

Section 15. KRS 244.090 is amended to read as follows:

(1) A person holding any license under KRS 243.020 to 243.670 shall not knowingly employ in connection with his or her business any person who:

(a) Has been convicted of any felony within the last two (2) years. The provisions of this paragraph shall apply to any new applicant for a license issued under this chapter after July 15, 1998, but shall not apply to renewals of licenses that were originally issued prior to July 15, 1998, or supplemental licenses related to an original license if the original license was issued prior to July 15, 1998;

(b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;

(c) Is under the age of twenty (20) years, unless the person is employed:

  1. In a bottling house or room of a licensed distiller, vintner, brewer, or rectifier;

  2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory or as provided in KRS 244.087; or

  3. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:

    a. A restaurant that derives at least fifty percent (50%) of its gross sales from the sale of food for consumption on the licensed premises; or

    b. Any other establishment with alcoholic beverage sales not exceeding fifty percent (50%) of its gross sales.

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(2) ***The provisions of paragraphs (a) and (b) of subsection (1) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.***

(3) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

Section 16. KRS 244.350 is amended to read as follows:

No retailer of distilled spirits or wine by the package shall[~~ accept orders for distilled spirits and wine by telephone or by mail, nor shall he~~] deliver or advertise the delivery of distilled spirits and wine.

Section 17. KRS 242.185 is amended to read as follows:

(1) This section shall apply to any city of the fourth class or county containing a city of the fourth class in which prohibition is not in effect, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.

(2) Upon a determination by the legislative body that an economic hardship exists within the city or county and that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(3) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

(4) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of this section, provided that any regulation adopted shall conform to the requirements of KRS 241.190.

(5) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.070, the city or county may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory or administrative related expenses. ***The***[~~Such~~] regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against ***the***[~~such~~] fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.070.

(6) In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a city or county in which prohibition is in effect may, by petition in accordance with KRS 242.020, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food. The election shall be held in accordance with KRS 242.030(1), (2), and (5), 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?". If the majority of the votes in an election held pursuant to this subsection are "Yes", licenses may be issued to qualified restaurants and dining facilities and the licensees may be regulated and taxed in accordance with subsections (4) and (5) of this section.

Section 18. KRS 243.075 is amended to read as follows:

Notwithstanding the provisions of KRS 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS Chapter 242 and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city ***and the governing body of the county containing the city*** is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each[~~ city~~] budget period at ***a***[~~such~~] percentage rate as shall be reasonably estimated to fully reimburse the ***local government***[~~city~~] for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city ***and county***. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, ***except:***

(1) [~~but~~]A credit against ***a regulatory license***[~~such~~] fee ***in a city*** shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070***; and***

(2) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.

Section 19. KRS 244.290 is amended to read as follows:

(1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county containing a city of the first***,***[~~ or~~] second***, or third*** class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.

(5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits administrator may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and

(b) The holders of distilled spirits and wine retail drink licenses have applied to the state administrator and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.

The Committee on Natural Resources and Environment reported **SB 290,** with House Committee Substitutes and House Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute No. 2 to **SB 290** is as follows:

SB 290, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS

FOLLOWS:

Sections 1 to 11 and Sections 12, 13, 14, 15, and 16 of this Act are intended to establish an efficient and predictable process, within the context of KRS 224.01-400 and 224.01-405, to promote voluntary cleanup and redevelopment of properties suspected of environmental contamination. This process will further the public purposes of protecting human health and the environment while stimulating economic development and job creation through the construction of new residential, commercial, and industrial facilities. Sections 1 to 11 and Sections 12, 13, 14, 15, and 16 of this Act shall not apply to radioactive material facilities licensed under KRS 211.842 to 211.852 and the administrative regulations promulgated pursuant thereto.

SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

(1) "Hazardous substance" shall have the meaning in KRS 224.01-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.01-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.01-400(2), and any hazardous substance included in KRS 224.01-400(3);

(2) "Petroleum" shall have the meaning set forth in KRS 224.60-115(15);

(3) "Petroleum storage tank" shall have the meaning set forth in KRS 224.60-115(16);

(4) "Property" means a tract of real property for which an application has been submitted under Section 3 of this Act;

(5) "Remediation" means the characterization of a release of a hazardous substance or petroleum, in accordance with KRS 224.01-400(18) for hazardous substances or KRS 224.01-405 for petroleum, and actions necessary to correct the effects of the release on the environment, as required by KRS 224.01-400 for hazardous substances, pollutants, or contaminants or KRS 224.01-405 for petroleum; and

(6) "Site" shall have the meaning in KRS 224.01-400(1)(c).

SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A Voluntary Environmental Remediation Program is established and shall be administered by the cabinet in accordance with Sections 1 to 11 of this Act.

(2) Any person may apply to enter a property in the program, unless:

  (a) The property is part of or contains a site which is on the National Priorities List established by the United States Environmental Protection Agency;

  (b) The property is part of or contains a hazardous waste treatment, storage, or disposal facility for which a permit has been issued, or the site is otherwise the subject of hazardous waste closure or corrective action;

  (c) The property or site is the subject of state or federal environmental enforcement action relating to the release, for which the application is submitted;

  (d) The property or site presents an environmental emergency, as defined in KRS 224.01-400; or

  (e) The cabinet determines that the release for which participation is sought occurred subsequent to the effective date of this Act.

(3) To apply to enter the voluntary environmental remediation program, an applicant shall:

  (a) Respond accurately and completely to all questions on an application provided by the cabinet;

  (b) Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a characterization plan for the releases or threatened releases adequate to comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 11 of this Act, and any regulations promulgated pursuant thereto; and

  (c) Submit a nonrefundable application fee. The fee shall be one thousand dollars ($1,000) for properties up to three (3) acres in size. The fee for properties greater than three (3) acres but less than ten (10) acres shall be two thousand five hundred dollars ($2,500). The fee for properties of ten (10) acres or larger shall be three thousand five hundred dollars ($3,500). However, a political subdivision of the state, and its agencies and instrumentalities, shall be exempt from paying the fee for properties that are publicly owned.

(4) Fees and costs collected under Sections 1 to 11 of this Act shall be deposited in the hazardous waste management fund set out in KRS 224.46-580(13). The cabinet shall use the fees and costs to administer the voluntary environmental remediation program.

(5) The cabinet shall, if requested, meet with the applicant either before or after submittal of an application to discuss the sufficiency of the application.

(6) The cabinet shall notify the Department for Public Health when the cabinet receives an application with information

pertaining to an actual or threatened release of a hazardous substance over which the Department for Public Health has regulatory authority.

SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall notify an applicant for the voluntary environmental remediation program within forty-five (45) working days of receipt of the application as to whether the application is accepted or denied.

(2) The cabinet shall deny an application if:

(a) The cabinet determines the property is ineligible to participate in the program under the provisions of Sections 1 to 11 of this Act;

(b) The cabinet withdraws from agreed order negotiations pursuant to the provisions of Section 5 of this Act; or

(c) The application is not complete.

(3) If the cabinet denies an application, the cabinet shall notify the applicant in writing, stating the reasons for the denial. If the reason for denial is incompleteness, the cabinet shall inform the applicant of the information needed to make the application complete.

(4) The applicant may submit, within ninety (90) working days of receipt of the initial denial notice, a completed or revised application without incurring an additional fee.

(5) Within forty-five (45) working days of resubmittal, the cabinet shall review any revised or completed application and notify the applicant in writing of its determination to accept or deny the application. If the cabinet denies the application again for incompleteness, the cabinet shall again inform the applicant of the information needed to make the application complete. The cabinet may assess a new application fee for the resubmittal.

(6) If the applicant's second revised application fails to provide the information necessary to address all the concerns of the cabinet, the applicant and the cabinet may meet to clarify the cabinet's expectations and concerns.

SECTION 5. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Once an application is accepted, the applicant and the cabinet shall enter into an agreed order which shall set forth the mutual responsibilities of the parties with respect to the remediation project.

(2) A voluntary remediation agreed order shall include:

(a) The applicant's agreement to:

1. Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a characterization plan for the releases or threatened releases adequate to comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated pursuant thereto;

2. Submit to the cabinet on the agreed schedule a characterization report and a corrective action plan complying with KRS 224.01-400, KRS 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated pursuant thereto within one hundred twenty (120) days after the date the agreed order is entered by the secretary of the cabinet, or such longer period agreed upon by the parties; and

3. Submit to the cabinet a corrective action report by the date agreed upon by the parties. The corrective action report shall contain a certification by the applicant that the remediation has been completed in accordance with the approved corrective action plan;

(b) A general listing of the estimated costs the cabinet expects to incur for its review and oversight of the remediation;

(c) The applicant's agreement to reimburse the cabinet for all reasonable actual and necessary costs of review and oversight that exceed the program's application fee, along with a schedule of the applicant's payments to reimburse the cabinet for its costs. The cabinet may waive in whole or in part its right to be reimbursed its costs related to properties of less than three (3) acres if the cabinet determines the waiver will best serve the public interest, in which case the agreed order shall note the waiver determination;

(d) The applicant's agreement to complete remediation on the agreed schedule in compliance with the approved corrective action plan;

(e) A requirement that records related to the site's remediation be retained and provided to the cabinet on request;

(f) A provision that the applicant may withdraw from the agreed order prior to issuance of the covenant not to sue, and have no further obligations thereunder, subject to payment of the cabinet's costs incurred prior to the withdrawal and the cabinet's reservation of its rights; and

(g) Any other provisions the cabinet determines are necessary to protect human health, safety, and the

environment, or to effectuate the purposes of Sections 1 to 11 of this Act.

(3) If the applicant and the cabinet are unable to negotiate an agreement in good faith within a reasonable time after negotiations have commenced, either party may withdraw from further negotiations.

SECTION 6. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon execution of an agreed order, the applicant shall submit to the cabinet within the agreed timeframe a site characterization report and a corrective action plan.

(2) The corrective action plan for properties involving hazardous substances over which the Department for Public Health has regulatory authority shall, at the time of submittal to the cabinet, also be submitted to the commissioner of the Department for Public Health.

(3) A corrective action plan shall comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated under these statutes, and shall include:

(a) Detailed documentation of the characterization conducted by the applicant to determine the nature and extent of the release or threatened release as required under KRS 224.01-400 and 224.01-405 and a description of any remediation performed on the site;

(b) A description of any corrective action and additional characterization proposed to complete the remediation in accordance with KRS 224.01-400 and 224.01-405, together with a proposed schedule for implementation;

(c) Descriptions of sampling and analysis methods, techniques, and results, and quality assurance methods and controls used or proposed;

(d) A description of measures to protect human health and safety during the remediation;

(e) A plan of action to inform the public about the remediation and redevelopment of the property and to provide for meaningful public comment;

(f) Identification of any limitations on land use or activity proposed for the site;

(g) Identification of any petroleum storage tanks on the site and an outline of how the applicant intends to comply with Subchapter 60 of KRS Chapter 224 and 401 KAR Chapter 42; and

(h) A requirement to update the corrective action plan to characterize and remediate releases discovered or caused during characterization or corrective action.

SECTION 7. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) working days of receipt of a corrective action plan, the cabinet shall:

(a) Review and evaluate the characterization and the corrective action plan for compliance with the agreed order, KRS 224.01-400, KRS 224.01-405, Sections 1 to 11 of this Act, and any administrative regulations promulgated pursuant thereto, and if necessary, inspect the property and any relevant conditions in the area surrounding the property; and

(b) Approve or deny the corrective action plan.

(2) If the cabinet determines from the characterization that the site has a hazard ranking (Mitre Model Ranking) of more than fifteen (15) or has a completed pathway of exposure, the cabinet shall have one hundred twenty (120) working days to approve or deny the corrective action plan.

(3) The cabinet may request an applicant to submit additional or corrected information during the applicable evaluation period. If the cabinet makes a request, the applicant may:

(a) Comply with the request by notifying the cabinet in writing and submitting the additional or corrected information within thirty (30) days after receiving the cabinet's request. From the date of the request by the cabinet until the additional or corrected information is submitted to the cabinet, the applicable evaluation period shall be suspended; or

(b) Request a final determination in accordance with KRS 224.01-400(22) within thirty (30) days after receiving the cabinet's request.

(4) If the cabinet approves a corrective action plan, the cabinet shall, in writing, notify the applicant and commenters.

(5) The cabinet shall deny a corrective action plan for failure to comply with KRS 224.01-400, KRS 224.01-405, Sections 1 to 11 of this Act, or any administrative regulations promulgated under these statutes. The cabinet may deny a corrective action plan for failure to respond to its request for information. If the cabinet denies a corrective action plan, it shall notify, in writing, the applicant and commenters, specifying the reasons for the denial. The cabinet shall also inform the applicant of the right to appeal the decision in accordance with KRS 224.10-420(2). Within thirty (30) days of receipt of the notice of denial, the applicant shall inform the cabinet if a revised corrective action plan or corrective action completion report will be submitted.

SECTION 8. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) On or before the date that an applicant submits a corrective action plan to the cabinet, the applicant shall:

(a) Notify local government units affected by the remediation of the provisions of the corrective action plan;

(b) Provide a copy of the corrective action plan to at least one (1) public library in any county affected by the remediation;

(c) Submit for publication in a newspaper of general circulation in the county or counties where the property is located, a notice requesting public comment on the corrective action plan, and submit to the cabinet a copy of the notice as published, within ten (10) days of its publication; and

(d) Post a sign on the property stating that the site is undergoing remediation and providing information on where and when the corrective action plan is available for public review and comment.

(2) A comment period of at least thirty (30) days shall follow publication of the notice. During the comment period, any person may submit written comments to the cabinet concerning the corrective action plan and may request a public hearing. The cabinet may hold a public hearing if the request is made.

(3) The cabinet may hold a public hearing in any geographical area affected by the remediation on the question of whether to approve or deny the corrective action plan.

(4) The cabinet shall consider all written comments and public testimony prior to taking any action.

SECTION 9. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon full performance of an approved corrective action plan, the applicant shall submit for the cabinet's review, by the deadline agreed upon by the parties, a corrective action completion report, and shall certify therein that the applicant has successfully completed remediation in compliance with the approved corrective action plan.

(2) The cabinet shall review the corrective action completion report in the same manner as it reviewed the corrective action plan.

(3) The cabinet may conduct its own investigation, including but not limited to its own characterization to verify that remediation has been completed in compliance with the approved corrective action plan. The reasonable actual and necessary costs of such verification shall be considered oversight costs reimbursable under Section 5(2)(c) of this Act. Any confirmatory sampling by the cabinet shall be completed within the deadline agreed by the parties.

(4) If the cabinet determines that no further remediation is required under the approved corrective action plan, and upon the applicant's payment of the cabinet's costs for review and oversight of the remediation, the cabinet shall issue the applicant a covenant not to sue.

(5) The covenant not to sue shall preclude the cabinet's prosecution of civil or administrative enforcement action against the applicant for civil liability, including injunctive relief, lien assertion, reimbursement of costs, or penalties for failure to perform remediation, arising pursuant to KRS 224.01-400, KRS 224.01-405, any administrative regulations promulgated under these statutes, KRS 224.99-010, or the federal Comprehensive Environmental Response Compensation and Liability Act with respect to the releases identified in the corrective action plan.

(6) The covenant not to sue shall be in recordable form, and shall be recorded by the applicant, along with all deed restrictions and institutional controls approved by the Cabinet, among the real estate records in the office of the county clerk where the property is located, within thirty (30) days of issuance by the cabinet. The covenant shall not be effective until it is recorded and a certified copy of the record instrument is delivered to the cabinet. The covenant shall not be effective with respect to any assignees, transferees, or successors until the requirements of the agreed order and the corrective action plan are incorporated as restrictions in the deed or other transfer instrument that is recorded and a certified copy of the record instrument is delivered to the cabinet.

(7) The covenant not to sue shall not apply to:

(a) Releases other than those expressly identified in the corrective action plan;

(b) Claims based on the applicant's failure to comply with a requirement of Sections 1 to 11 of this Act, the agreed order, the approved corrective action plan, or the approved corrective action completion report, including any required land use restrictions and engineering or institutional controls;

(c) Liability resulting from the applicant's exacerbation of the releases identified in the corrective action plan;

(d) Criminal liability;

(e) Petroleum storage tanks;

(f) Claims or liability based on or resulting from misrepresentations or intentional omissions by the applicant;

(g) Liability for any conditions at the site that were not known to the cabinet when the cabinet approved the corrective action plan or the corrective action completion report, provided those conditions prevent the

remediation from being protective of human health, safety, and the environment;

(h) Claims based on charges in the development of scientific knowledge, as reflected in published peer-reviewed health or environmental standards, that indicate that the remediation is no longer protective of human health, safety, and the environment; and

(i) Only with respect to the person causing, possessing, or controlling the release, mistakes by the cabinet, its agents, or employees, in approving an application, corrective action plan, or corrective action report, or in issuing a covenant not to sue, which result in further action being necessary to protect human health, safety, and the environment.

SECTION 10. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The following actions of the cabinet shall be considered final determinations under Sections 1 to 11 of this Act that may be appealed in accordance with KRS 224.10-420(2):

(1) Denial of an application to participate in the voluntary environmental remediation program;

(2) Cabinet withdrawal from negotiations with an applicant for an agreed order;

(3) Denial or approval of a corrective action plan; and

(4) Issuance or denial of a covenant not to sue.

SECTION 11. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The numerical values contained in the document titled "Region 9 Preliminary Remediation Goals," published by the United States Environmental Protection Agency's Region 9, are hereby established as screening levels and shall be used by the cabinet in conformance with the guidance set out in the Region 9 Preliminary Remediation Goals. It is not the intent of this section to establish these levels as the cleanup standards for individual contaminants that may be present at any site.

SECTION 12. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 1 to 11 of this Act shall be considered approved costs for the purposes of KRS 154.26-010 to 154.26-100.

SECTION 13. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 1 to 11 of this Act shall be considered approved costs for the purposes of KRS 154.28-010 to 154.28-100.

SECTION 14. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

Remediation of a property owned by a governmental agency in accordance with Sections 1 to 11 of this Act shall qualify as an infrastructure project for the purposes of this chapter.

SECTION 15. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Economic Development Finance Authority shall review the economic development financing mechanism known as "tax increment financing." The review shall determine the appropriate application of tax increment financing for the state and its political subdivisions, provide guidance on developing proposed legislation to apply tax increment financing in Kentucky, and focus on the use of tax increment financing for the redevelopment of sites affected by a release of hazardous substances, pollutants, or contaminants or a release of petroleum.

(2) The authority shall present the results of the review to the Interim Joint Committee on Local Government no later than March 31, 2001.

SECTION 16. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall implement Sections 1 to 11 of this Act from and after the effective date of this Act. The cabinet shall publish forms by October 31, 2000, and may promulgate necessary administrative regulations, to implement Sections 1 to 11 of this Act.

Section 17. This Act may be cited as the Voluntary Environmental Remediation Act.

The House Committee Amendment No. 1 Title to **SB 290** is as follows:

On page 1, title line, by changing the title to read "AN ACT relating to voluntary remediation of hazardous substances and petroleum."

The Committee on Local Government reported **SB 75,** with House Committee Substitute and House Committee Amendment attached thereto, **SB 197** and **SB 255,** with House Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 75, AN ACT relating to local government officials' bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) All officers, officials, and employees of cities, counties, urban-county governments, charter county governments, and special districts who handle public funds in the execution of their duties shall give a good and sufficient bond to the local governing body for the faithful and honest performance of his or her duties and as security for all money coming into that person's hands or under that person's control. The bond amount shall be based upon the maximum amount of public funds the officer, official, or employee handles at any given time during a fiscal year cycle. The local governing body shall pay the cost of the bond.

(2) Elected officials who post bond as required by statute, and employees of their offices covered by a blanket or umbrella bond, shall be deemed to have complied with subsection (1) of this section.

The House Committee Substitute No. 1 to **SB 75** is as follows:

SB 75, AN ACT relating to local government officials' bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) All officers, officials, and employees of cities, counties, urban-county governments, charter county governments, and special districts who handle public funds in the execution of their duties shall give a good and sufficient bond to the local governing body for the faithful and honest performance of his or her duties and as security for all money coming into that person's hands or under that person's control. This provision shall not apply to entities that maintain a self-insurance fund of more than one million dollars ($1,000,000) which covers these loss exposures. The bond amount shall be based upon the maximum amount of public funds the officer, official, or employee handles at any given time during a fiscal year cycle. The local governing body shall pay the cost of the bond and may satisfy this requirement through surety provided by a program created under the authority of KRS 65.150.

(2) Elected officials who post bond as required by statute, and employees of their offices covered by a blanket or umbrella bond, shall be deemed to have complied with subsection (1) of this section.

Section 2. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

  (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

  (b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways,

parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;[~~ and~~]

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247***;***

(25) "Manufactured home" means a single-family residential dwelling as defined in KRS 227.550;

(26) "Qualified manufactured home" means a manufactured home that meets all the criteria in paragraphs (a) to (g) of this subsection. A qualified manufactured home:

(a) Is manufactured after January 1, 2000, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code;

(b) Is affixed to a permanent foundation, is connected to the appropriate facilities, and is installed in compliance with KRS 227.570;

(c) Has a width of at least twenty-two (22) feet at its smallest width measurement, or is two (2) stories in height, and is oriented on the lot or parcel so that its main entrance door faces the street;

(d) Has a minimum total living area of nine hundred (900) square feet;

(e) Has a minimum roof pitch of a four (4) foot rise to a twelve (12) foot run;

(f) Has conventional residential siding and a minimum of a six (6) inch eave overhang; and

(g) Is not located in a manufactured home park; and

(27) "Permanent foundation" means a permanent masonry, concrete, or locally approved footing or foundation, excluding

temporary blocks, to which a manufactured home may be affixed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section and Section 4 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulations or ordinances relating to a mobile home.

(2) Cities, counties, urban-county governments, and charter county governments shall not adopt or enforce zoning or other land use regulations or ordinances that exclude qualified manufactured homes from those cities, counties, urban-county governments, or charter county governments, or that differentiate qualified manufactured homes within those cities, counties, urban-county governments, or charter county governments that are sited on a permanent foundation, as defined in subsection (27) of Section 2 of this Act, from other residential housing solely because the qualified manufactured homes are either built in a factory or are not built on-site.

(3) Cities, counties, urban-county governments, and charter county governments may adopt regulations concerning the size, aesthetics, and architectural design of a qualified manufactured home so that the special character of neighborhoods, including historic preservation districts, may be maintained. Nothing in this section limits the ability of cities, counties, urban-county governments, or charter county governments to adopt zoning or land use regulations or ordinances that affect residential housing other than as prescribed in subsection (2) of this section or to require a final inspection of any manufactured home for the purpose of ensuring that no damage has occurred during transportation or assembly of the manufactured home that could compromise its structural integrity.

Section 4. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

  (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

  (b) The size, width, height, bulk, location of structures, buildings and signs;

  (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

  (d) Intensity of use and density of population floor area to ground area ratios, or other means;

  (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

  (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

  (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

  (a) Setback lines may be required for the protection of existing and proposed streets and highways;

  (b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

  (c) ***Manufactured homes,*** mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced***; and***

(9) Nothing in this chapter shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that excludes qualified manufactured homes, as defined in Section 2 of this Act, from locating within the boundaries of the city, county, urban-county government or charter county government, or differentiates qualified manufactured homes, as defined in Section 2 of this Act, from other single-family residential dwellings contrary to the provisions contained in Sections 2, 3, and 4 of this Act.

The House Committee Amendment No. 1 Title to **SB 75** is as follows:

Amend the title to read as follows: "AN ACT relating to local governments.".

SB 197, AN ACT relating to the Local Match Participation Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.029 is amended to read as follows:

(1) The commissioner of the Department for Local Government shall administer and determine the disbursement of funds for the Local Match Participation Program~~[for statewide flood control projects]~~.

(2) Funds appropriated for the Local Match Participation Program~~[for statewide flood control projects]~~ may be used as matching funds by local governments for flood-related projects ***and straight sewage pipe removal projects*** with:

(a) The United States Army Corps of Engineers;

(b) The Federal Emergency Management Agency (FEMA); and

(c) Other~~[flood-related]~~ federal government grant and loan programs requiring local matching funds.

(3) Any general fund appropriations made for the Local Match Participation Program~~[for statewide flood control projects]~~ may~~[also]~~ be used for flood control planning and mitigation activities ***and straight sewage pipe removal and mitigation activities***.

SB 255, AN ACT relating to county budgets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.310 is amended to read as follows:

Except in case of an emergency concerning which the county judge/executive, the fiscal court and the state local finance officer unanimously agree in writing, and, except for encumbrances or expenditures from the county's road fund, no county shall, during the first half of any fourth fiscal year, beginning with the fiscal year 1998-1999, encumber or expend more than ***fifty-five percent (55%)***~~[sixty-five percent (65%)]~~ in any fund budgeted for that fiscal year, not counting as current funds any budgetary allotments for or payments of principal and interest of bonded indebtedness. Prior to encumbering or expending any funds from the road fund during the first half of any fourth fiscal year which exceed ***fifty-five percent (55%)***~~[sixty-five percent (65%)]~~ of the amount budgeted, the fiscal court shall assure that there are sufficient funds remaining in the general fund to provide for the excess encumbrance or expenditure from the road fund on a dollar for dollar basis. Those excess funds shall remain in the general fund until on or after January 1 of that fiscal year.

Section 2. KRS 68.990 is amended to read as follows:

(1) Any outgoing county treasurer who fails for ten (10) days to comply with any of the provisions of KRS 68.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(2) The fiscal court and each of its members who fails or refuses to comply with any of the provisions of KRS 68.080 shall be fined fifty dollars ($50) for each offense.

(3) Any county officer or member of a fiscal court who violates any of the provisions of KRS 68.110(3) shall be fined not less than one hundred ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both.

(4) The fiscal court and each of its members who fails or refuses to implement a system of uniform accounts as prescribed by the state local finance officer pursuant to KRS 68.210 shall be fined one hundred dollars ($100) for each offense.

(5) Any local government official who fails to submit a financial report requested by the state local finance officer pursuant to KRS 68.210 shall, fifteen (15) days after written notice of noncompliance by the state local finance officer, be fined two hundred fifty dollars ($250) per day until compliance.

(6) Any county or state officer who knowingly violates any of the provisions of KRS 68.250(4), 68.270, 68.280,~~[68.310,]~~ or 68.320 shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his office declared vacant, and may also be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both.

(7) Any county officer who willfully violates any of the provisions of KRS 68.010, 68.020(4), 68.220 to 68.260, 68.290, 68.300, or 68.360 shall be fined not less than fifty (50) nor more than two hundred dollars ($200).

(8) Any person, including a corporation, who willfully fails to prepare or file a timely return, account, or license application described in KRS 68.185, or who willfully prepares or files a false or inaccurate return, account, or license application shall be fined not more than one hundred dollars ($100).

(9) (a) Any county or state officer who knowingly violates the provisions of Section 1 of this Act shall individually be subject to the following:

1. If the amount expended exceeds fifty-six percent (56%) of the fourth year budget in any fund budgeted for that fiscal year, the officer or officers may be jointly and severally assessed a civil penalty in the amount in excess of fifty-five percent (55%);

2. If the amount expended exceeds sixty percent (60%) in any fund budgeted for that fiscal year, but is less than sixty-five percent (65%), the officer shall be guilty of a class A misdemeanor; and

3. If the amount expended is sixty-five percent (65%) or greater in any fund budgeted for that fiscal year, the officer shall be guilty of a Class D felony.

(b) An action to recover the civil penalty and prosecution of the misdemeanor in subparagraphs 1. and 2. of paragraph (a) of this subsection shall be brought by the county attorney in the jurisdiction where the violation occurred. With the exception of the preliminary hearing, which may be brought by the county attorney, prosecution of the felony in subparagraph 3. of paragraph (a) of this subsection shall be brought by the Commonwealth's attorney in the jurisdiction where the violation occurred.

The House Committee Amendment No. 1 to **SB 255** is as follows:

On page 2, line 20, after the word "***knowingly***", insert the words "***and willfully***"; and

On page 3, line 1, after the word "***class***", delete "***A***" and insert "***B***" in lieu thereof; and

On page 3, line 4, delete the words "***D felony***" and insert "***A misdemeanor***" in lieu thereof; and

On page 3, line 6, after "***1.***" delete "***and***" and insert a "***,***" in lieu thereof; and

On page 3, line 6, after "***2.***" insert the words "***, and 3.***"; and

On page 3, line 8, after the word "***occurred.***", delete the rest of the line in its entirety; and

On page 3, delete lines 9 through 11 in their entirety.".

The Committee on Banking and Insurance reported **HR 156** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 156, A RESOLUTION requesting a study of the local insurance premium tax and its collection.

WHEREAS, local governments are limited in the tax options available to them; and WHEREAS, the insurance premium tax is considered an important source of revenue for local governments; and

WHEREAS, the Department of Insurance reports that in 1998, 325 cities and 21 counties had enacted this tax; and

WHEREAS, there has been a history of collection and distribution complaints regarding the insurance premium tax from both local government and insurance company representatives over the years; and

WHEREAS, it is the role of the legislature to ensure that local governments have adequate resources to fund necessary services they provide to their citizens and that these funds are collected and used responsibly;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Interim Joint Committee on Local Government is urged to study the procedure for the collection and distribution of the local insurance premium tax to local governments and report its findings to the Legislative Research Commission. The study report is urged to be submitted to the Legislative Research Commission by December 31, 2000.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

The Committee on Economic Development reported **SB 23, SB 115, SB 216, SB 225, SB 372, SB 394, SCR 111, SCR 113** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 23, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its rural economic development assistance program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available, and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate that meets the criteria of this subsection, the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required ***in KRS 154.22-010 to 154.22-070***~~[herein]~~ are entered into by all parties prior to July 1 of the ***second*** year following the calendar year in which the authority decertified that county.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

  1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

  2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

SB 115, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.20-030 is amended to read as follows:

It shall be the purpose of the Kentucky Economic Development Finance Authority to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to reduce the costs and liabilities by encouraging and financing efforts to reduce and avoid the generation of hazardous waste and toxic by-products, to foster export activity, to foster economic development on surface mining land, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, agribusiness, forestry and forestry facilities, commerce and commercial facilities, health care and health related facilities, export markets and export activities, industry and industrial buildings and facilities, ***riverport facilities,*** tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment. Such purposes shall be public purposes for which public money may be spent.

Section 2. KRS 154.20-035 is amended to read as follows:

(1) The authority may, upon approval of the board, borrow money and issue bonds or notes in accordance with KRS 154.10-035 and other provisions of this chapter appertaining, subject to KRS 42.420, for the following purposes:

  (a) To provide sufficient funds for achieving the authority's purposes and objectives, including but not limited to, amounts necessary to pay the costs of acquiring projects or any part thereof; ***to make loans for the maintenance, operation, expansion, or development of riverport facilities that are under the authority of a developmental riverport authority established under KRS 65.520;*** to make loans for the cost of a project or any part thereof; to make loans pursuant to KRS 154.10-030(11) for an export-related transaction; to make grants; to provide money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; to make working capital loans; for all other expenditures of the authority incident to and necessary or convenient to carry out the authority's purposes, objectives, and powers; or for any combination of the foregoing;

  (b) To refund bonds or notes of the authority issued under this chapter, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund such bonds or notes and partly for any other purpose provided for by this section; or

  (c) To pay the costs of issuance of bonds or notes under this chapter; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment thereof as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in such amount as shall be determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority, shall bear the date or dates, and shall mature at the time or times, not exceeding fifty (50) years from the date of issuance, as the resolution provides. The bonds and notes shall bear interest at the rate or rates set, reset, or calculated from time to time as provided in the resolution. The bonds and notes shall be in the denominations; be in the form, either coupon or registered; carry the registration privileges; be transferable; be executed in the manner; be payable in the medium of payment, at the place or places; and be subject to the terms of prior redemption at the option of the authority or the holders thereof as the resolution or resolutions provide. The bonds and notes of the authority may be sold at public or private, negotiated sale, at the price or prices the authority determines. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be:

(a) Made the subject of a put or agreement to repurchase by the authority or others;

(b) Secured by a letter of credit or by any other collateral which the resolution may authorize;

(c) Resold by the authority, once acquired by the authority, pursuant to any put or repurchase agreement without the acquisition being considered the extinguishment of the bond or note.

(4) The authority may authorize its chairman or other officer to, by order:

(a) Sell and deliver, and receive payment for notes or bonds;

(b) Refund notes or bonds by the delivery of new notes or bonds, whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes;

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes;

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds; or

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues, properties, or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security therefor.

(6) The notes or bonds of the authority shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the Uniform Commercial Code, subject only to the provisions of the notes or bonds for registration.

(7) A resolution authorizing notes or bonds may contain any or all of the following covenants which shall be a part of the contract with the holders thereof:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the authority, or all or a part of the money received in payment of lease rentals, or loans and interest thereon, and other money received or to be received to secure the payment of the notes or bonds or an issue thereof, subject to agreements with bondholders or noteholders as may then exist;

(b) A pledge of all or a part of the assets of the authority, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;

(c) A pledge of a loan, grant, or contribution from the federal, state, or municipality, or source in aid of a project as provided for in this chapter;

(d) A provision as to the use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the authority;

(e) A provision as to the establishment and setting aside of reserves or sinking funds and the regulation and disposition thereof subject to this chapter;

(f) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes;

(g) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured;

(h) A provision for the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent thereto, and the manner in which the consent may be given;

(i) Vesting in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority may determine necessary to appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the authority with any trustee who may be located inside or outside this state to accomplish any of the foregoing;

(j) Providing for the payment of maintenance and repair costs of a project;

(k) Establishing the insurance to be carried on a project and the use and disposition of insurance money and condemnation awards;

(l) Establishing the terms, conditions, and agreements upon which the holder of the bonds, or a portion thereof, shall be entitled to the appointment of a receiver by the Circuit Court. A receiver may enter and take possession of the project and maintain it or lease or sell it for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the authority; and

(m) Providing for any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

(8) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority and shall be valid and binding against the transfer of the money or property pledged, irrespective of whether the parties have notice. It shall not be necessary to record the resolution, the trust agreement, or any other instrument by which a pledge is created.

(9) Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to personal liability or accountability by reason of the issuance thereof.

(10) The state shall not be liable for any financial obligations of the authority nor shall any such obligations or bonds be considered a debt of the state. The obligations shall contain on the face thereof a statement indicating this fact.

(11) The notes and bonds of the authority shall be securities in which the public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies, associations, and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds.

(12) The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation as a result of legislative action by the federal government. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this chapter, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this chapter, the interest thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

Section 3. KRS 154.20-060 is amended to read as follows:

(1) Insurance, guarantees, or letters of credit provided or procured pursuant to KRS 154.20-040 and 154.20-045 shall be provided or procured only for projects within this state which are consistent with the purposes and objectives of the authority and this chapter.

(2) The authority shall give paramount priority in providing or procuring insurance, guarantees, and letters of credit to projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

(3) Notwithstanding the provisions of subsection (2) of this section, when considering project applications from a riverport facility established under KRS 65.520, the authority shall not give priority to regulatory criteria pertaining to direct employment at these facilities and shall instead give priority to the indirect employment maintained or created.

SB 216, AN ACT relating to the natural history of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the natural heritage of the Commonwealth is unique and plays a pivotal role in the economy of the state. As the state competes in an expanding global marketplace, this unique heritage must be recognized for its economic importance. In addition, the General Assembly finds that Kentuckians have a deep, personal commitment to a responsible stewardship of the land and water in order that future Kentuckians may benefit from the state's natural heritage. Upon these findings, the General Assembly declares that the purposes of Sections 1 to 9 of this Act are to:

(1) Establish a natural history museum to showcase the natural heritage of the state;

(2) Provide a focal point for gathering resources to educate Kentuckians about the value and uniqueness of the state's natural heritage and to illustrate the historical human interactions with nature;

(3) Establish a database of information on the state's natural heritage;

(4) Create a repository of historical and contemporary specimens of the state's flora, fauna, fossils, minerals, archeological remains, and other natural features;

(5) Prevent the loss of specimens of Kentucky's natural heritage to other states; and

(6) Complement without duplicating the inventory duties of existing state agencies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) To achieve the purposes of Sections 1 to 9 of this Act, the Kentucky Natural History Museum is created. The museum shall serve Kentuckians as a focal point of educational resources to:

(a) Support teaching the natural sciences and anthropology in Kentucky and to educate the public about the unique and diverse natural history of the Commonwealth;

(b) Encourage the conservation of the state's natural resources;

(c) Create a stable repository for scientifically valuable and irreplaceable biological, geological, and archeological specimens; and

(d) Encourage the repatriation and preservation of Kentucky specimens that have been or may be sent outside the state because those specimens cannot be financially supported by their owners.

(2) The museum shall be developed and administered by a board of directors comprised of the following:

(a) The director of the Kentucky Geological Survey;

(b) The director of the Kentucky State Nature Preserves Commission;

(c) The executive director of the Kentucky Heritage Council;

(d) The director of the Kentucky Historical Society;

(e) The commissioner of the Kentucky Department of Fish and Wildlife Resources; and

(f) Two (2) members representing the Kentucky Academy of Science, one (1) each from the disciplines of biology and anthropology, who shall be appointed by the Governor from a list of four (4) nominees, two (2) from each discipline, submitted by the Kentucky Academy of Science.

(3) The director of the Kentucky Natural History Museum shall serve as an ex officio member of the board of directors, be counted for purposes of establishing a quorum for conducting business, and be entitled to participate in deliberations of the board, but shall not be entitled to vote when official actions are taken by the board.

(4) The first chair of the Kentucky Natural History Museum Board of Directors shall be the director of the Kentucky Historical Society, who shall call the first meeting of the board. At the first meeting, the board shall elect a chair. Each chair elected by the board shall serve a single term of three (3) years.

(5) The Kentucky Academy of Science's appointees shall serve three (3) year terms, and they may be reappointed for a second term.

(6) Nominees for appointment to the board shall have resided in Kentucky for at least one (1) year immediately prior to their consideration for appointment.

(7) The board may request the Governor to replace an appointed member who fails to attend three (3) consecutive board meetings.

(8) The appointed members of the board shall serve without pay but shall be paid for expenses directly related to attending board meetings and to performing board authorized activities.

(9) The board shall meet at least four (4) times a year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) The board of directors of the Kentucky Natural History Museum shall establish the Kentucky Natural History Museum. The board shall implement Sections 1 to 9 of this Act to the extent practical prior to operation of the museum. Working to achieve the public purposes that are the goals of implementation of Sections 1 to 9 of this Act shall not be dependent on the existence and operation of the museum in a physical place.

(2) The board shall be administratively linked to the Education, Arts, and Humanities Cabinet.

(3) To accomplish the purposes of Sections 1 to 9 of this Act, the board is authorized to:

(a) Acquire and hold property by deed, gift, devise, bequest, lease, exchange, purchase, or transfer;

(b) Plan for, develop, construct, and maintain buildings;

(c) Enter into agreements with state, federal, or local agencies;

(d) Employ and contract with individuals, corporations, or other business entities to accomplish the purposes of

Sections 1 to 9 of this Act;

(e) Accept and administer appropriations, gifts, grants, devises, and bequests of money, securities, or other items of value; and

(f) Carry out any other functions necessary to accomplish the purposes of Sections 1 to 9 of this Act.

(4) To accomplish the purposes of Sections 1 to 9 of this Act, the board may provide and administer grants to public and private entities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The board shall hire a director to administer the Kentucky Natural History Museum and to assist the board in implementing Sections 1 to 9 of this Act. The board shall select as director a candidate who has a strong background in the natural sciences, demonstrated management skills, and knowledge of Kentucky's natural history. The director shall have at a minimum a master's degree in the natural sciences or anthropology and five (5) years of experience in the educational, research, or exhibit design work of a natural history museum or five (5) years of experience as a curator of significant archeological, biological, or geological collections. The director shall serve at the pleasure of the board. The board may hire the director prior to the development of the museum.

SECTION 5. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The director of the Kentucky Natural History Museum shall:

(1) Implement the policy directives of the museum's board of directors;

(2) Assist the board in developing and implementing programs to solicit financial and other support for the museum and its mission;

(3) Be the principal representative of the museum. However, the board or the museum director may designate a different representative when necessary;

(4) With the board of directors' approval, hire clerical and administrative support staff and obtain office space and equipment;

(5) With the board of directors' approval, hire the associate directors to manage the mission units established in Sections 7, 8, and 9 of this Act; and

(6) By September 1 of each year, report to the Governor, the board, and the Legislative Research Commission on activities, accomplishments, finances, and the next year's goals.

SECTION 6. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The purposes of Sections 1 to 9 of this Act shall be carried out through the operation of mission units. When the Kentucky Natural History Museum is established, the mission units shall become administrative units of the museum. Each unit shall be managed by an associate director.

SECTION 7. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) There shall be a curation and science unit within the Kentucky Natural History Museum. The curation and science unit shall:

(a) Collect specimens of Kentucky's extant and fossilized flora and fauna;

(b) Identify and inventory significant archeological sites;

(c) Collaborate with scientists in the state agencies, colleges and universities, and other members of the scientific community on sharing relevant data and creating common databases of biological, archeological, geological, and paleontological information;

(d) Catalog and maintain specimens and artifacts obtained by the museum;

(e) Assure the quality of specimens kept in storage, available through a loan, or displayed;

(f) Accept existing scientifically significant and well-preserved biological, archeological, geological, and paleontological collections that may be offered from private or public entities; and

(g) Conduct research and publish scientific papers related to the purposes of Sections 1 to 9 of this Act.

(2) The associate director of the curation and science unit shall have an earned doctorate in the biological, earth sciences, or anthropology with demonstrated experience in curation of biological or geological collections.

(3) Information that would endanger natural heritage resources by revealing their location shall be exempt from KRS 61.870 to 61.884 unless:

(a) The information is to be used for scientific research or in efforts to protect and preserve the resource;

(b) The person requesting the information agrees in writing to keep confidential the location of the resource; and

(c) The director determines that release of the information will not endanger the resource.

SECTION 8. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) There shall be an education and events unit within the Kentucky Natural History Museum. The education and events unit shall:

(a) Develop programs for the general public and public schools to showcase the natural resources of the state, to explain the values of and need for maintaining biological diversity, to illustrate how people have historically interacted with and affected biodiversity and the environment, and to serve as a resource to public schools to promote understanding and appreciation of Kentucky's natural heritage;

(b) Publicize museum activities and goals;

(c) Develop a program to make useful and accessible to government agencies and citizens the information obtained by the collaborative efforts of the museum;

(d) Solicit assistance from public and private resources;

(e) Conduct an annual symposium focusing on broadening the scientific and popular understanding of Kentucky's natural heritage; and

(f) Perform other functions appropriate to public education, consistent with the mission of the museum.

(2) The associate director of the education and events unit shall have demonstrated experience in science education and an ability to develop educational exhibits and science education programs.

SECTION 9. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) There shall be an exhibits and maintenance unit of the Kentucky Natural History Museum. The exhibits and maintenance unit shall:

(a) Plan, design, construct, and maintain exhibits in cooperation with the education and events unit;

(b) Plan, design, construct, and provide traveling exhibits and other appropriate resources for public education in cooperation with the education and events unit;

(c) Provide storage of exhibit materials; and

(d) Acquire exhibit materials from other institutions, collections, and agencies that are relevant to the natural history of Kentucky.

(2) The associate director of the exhibits and maintenance unit shall have demonstrated experience in the planning, design, production, and maintenance of natural history exhibits.

SB 225, AN ACT relating to opportunity zone development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBCHAPTER 23 OF KRS CHAPTER 154 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares as follows:

(1) That the general welfare and material well-being of the citizens of the Commonwealth, particularly those residing in qualified zones, depends in large measure upon development and growth of manufacturing and service or technology industries in the Commonwealth;

(2) It is in the best interest of the Commonwealth to create new sources of tax revenues for the support of public services, to induce the location and expansion of manufacturing and service or technology industries within qualified zones, and to advance the public purposes of relieving unemployment and providing employment opportunities that would not exist but for the inducements offered by the authority to eligible companies; and

(3) That the authority granted by Sections 1 to 16 of this Act and purposes to be accomplished under Sections 1 to 16 of this Act are proper governmental and public purposes for which public moneys may be expended, and the inducements for the location and expansion of manufacturing and service or technology industries within qualified zones is of paramount importance, for which Sections 1 to 16 of this Act shall be liberally construed and applied to advance public purposes.

SECTION 2. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act, unless the context clearly indicates otherwise:

(1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in Section 6 of this Act;

(2) "Approved costs" means:

(a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:

1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;

3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;

4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or

(b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(3) "Assessment" means the job development assessment fee authorized by Section 11 of this Act;

(4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;

(5) "Commonwealth" means the Commonwealth of Kentucky;

(6) "Economic development project" or "project" means:

(a) A service or technology activity conducted by an approved company; or

(b) Any of the following activities of an approved company engaged in manufacturing:

1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in Sections 1 to 16 of this Act, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;

2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under Sections 1 to 16 of this Act;

3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under Section 12 of this Act;

(7) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;

(8) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under Sections 1 to 16 of this Act;

(9) "Financing agreement" means any agreement entered into, under Section 7 of this Act, on behalf of the authority or other lenders, or both, and an approved company engaged in manufacturing with respect to an economic development project;

(10) "Inducements" means the assessment and the income tax credits allowed to an approved company under Sections 10 and 11 of this Act;

(11) "Local government" means a city, county, or urban-county government;

(12) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;

(13) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under Sections 1 to 16 of this Act;

(14) “Qualified employee” means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(15) “Qualified statewide employee” means an individual subject to Kentucky income tax who has resided in any census tract in the Commonwealth that meets the criteria in Section 3 of this Act, regardless of whether the tract is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;

(16) "Qualified zone" means any census tract certified as such by the authority in Sections 3 and 4 of this Act;

(17) “Relocation costs” mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location outside of a qualified zone to a qualified zone location;

(18) “Rent” means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and

(c) Rent shall include the customary cost of occupancy that includes, but is not limited to, property taxes, heating and air conditioning, electricity, sewer, and insurance;

(19) “Service and technology agreement” means any agreement entered into, under Section 8 of this Act, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;

(20) “Service or technology” means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the “Standard Industrial Classification Manual,” as revised by the United States Office of Management and Budget from time to time, or any successor publication; and

(21) “Start-up costs” mean the cost of furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with Section 8 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts as a qualified zone provided that each census tract independently meets each of the following criteria, as verified by the Department for Employment Services within the Cabinet for Workforce Development:

(a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;

(b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and

(c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.

(2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.

(3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth.

(4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets

the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by Sections 1 to 16 of this Act, unless the financing agreement or service and technology agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

(5) Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county.

(6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under Section 4 of this Act shall be contiguous to a census tract that continues to meet the criteria under this section.

(7) The authority shall pay its costs of counsel relating to zone certification.

SECTION 4. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) When new decennial census data becomes available, a county, urban-county government, or city of the first class may apply in writing to the authority for amendment to the boundary of an existing qualified zone. A boundary change to an existing qualified zone shall not become effective until written approval has been granted by the authority.

(2) A county, urban-county government, or city of the first class that applies to the authority to amend the boundary of an existing qualified zone shall certify in writing to the authority the following information:

(a) Any census tract proposed for amendment is contiguous to the existing qualified zone;

(b) The census tract proposed for amendment independently meets the population density, unemployment, and poverty requirements set forth in Section 3 of this Act based on decennial census figures; and

(c) The addition of the census tract or tracts proposed shall not enlarge the qualified zone to more than five (5) census tracts.

SECTION 5. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Relevant standards for approval of eligible companies and economic development projects shall include, but are not limited to, creditworthiness of the eligible company, the number of new jobs to be provided by a project to Kentucky residents, and the likelihood that the project will be an economic success.

(2) An eligible company shall certify to the authority by written application that it makes the following commitments in an economic development project:

(a) A minimum investment of one hundred thousand dollars ($100,000) in the project;

(b) Creation of a minimum of ten (10) new full-time jobs at the project site for qualified employees;

(c) A statement that no significant number of existing jobs in the Commonwealth will be lost or adversely affected due to approval of the eligible company and its economic development project; and

(d) A statement that the economic development project could reasonably and efficiently locate outside the qualified zone and, without the inducements offered by the authority, the eligible company would likely locate outside the zone.

(3) (a) No project that will result in the replacement of an existing manufacturing or service or technology facility existing in the Commonwealth shall be approved by the authority; however, the authority may approve a project if the project:

1. Rehabilitates a manufacturing or service or technology facility that has not been in operation, or the title to which is vested in one other than the eligible company and that is sold or transferred under a foreclosure ordered by a court of competent jurisdiction or by order of bankruptcy court;

2. Replaces a manufacturing or service or technology facility existing in the Commonwealth that been damaged or destroyed by fire, or the title to which shall have been taken under the exercise of the power of eminent domain or is the subject of a nonappealable judgment that grants the power of eminent domain to the authority, in any of these events to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

3. Replaces an existing manufacturing or service or technology facility located in the same qualified zone that cannot be expanded due to the lack of available real estate at or adjacent to the manufacturing or service or technology facility to be replaced. Any economic development project satisfying the requirements of this paragraph of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or service or technology facility to be replaced.

(b) No economic development project otherwise satisfying the requirements of paragraph (a) of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

SECTION 6. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) With respect to each eligible company that applies to the authority for inducements, and with respect to the project described in its application, the authority shall request materials and make all inquiries concerning the application the authority deems necessary. Upon review of the application and requested materials, and completion of initial inquiries, the authority may, by resolution of the board of directors, grant preliminary approval to the eligible company. The authority shall approve a report describing the economic development project, that shall set out as follows:

(a) The name, qualified zone location, business, and standard industrial classification of the eligible company;

(b) The nature of the economic development project;

(c) The use and projected amounts of the inducements to be available to the eligible company by year; and

(d) Other information as the authority may require.

(2) After preliminary approval, completion of its loan, other financing or leasing as permitted by subsection (6)(b)4. of Section 2 of this Act by an eligible company engaged in manufacturing activities with respect to its economic development project, and review thereof by the authority, the authority may, by resolution of its board of directors, designate an eligible company to be an approved company, and execute a financing agreement among the eligible company, the authority, lenders, if applicable, and lessor, if applicable.

(3) Within a one (1) year period following preliminary approval of an eligible company engaged in service or technology activities with respect to its economic development project, the authority may designate the eligible company as an approved company and execute a service and technology agreement among the eligible company, the authority, and lessors, if applicable. If final approval of an eligible company does not occur within the one (1) year period as provided in this subsection, then the eligible company's request for designation and project authorization shall be considered denied.

(4) The decision to grant an eligible company the status of an approved company shall be solely that of the authority, which shall base its decision upon consideration of all information provided.

SECTION 7. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority, upon adoption of an authorizing resolution, may enter into a financing agreement with any approved company engaged in manufacturing activities with respect to its economic development project, other lenders, if applicable, and lessor, if applicable. The terms and provisions of each financing agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

(a) The term of a financing agreement, that shall commence on the date of the financing agreement, and shall not be longer than the earliest of:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project;

2. The termination of any lease under subsection (6)(b)4. of Section 2 of this Act; or

3. Ten (10) years from the activation date of the original financing agreement.

4. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing, or the financing of the balance of the purchase price of an economic development project originally leased in accordance with subsection (6)(b)4. of Section 2 of this Act.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period;

(c) The approved company may be permitted the following inducements during the term of the financing agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under Section 17 of this Act, on the *income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and Section 9 of this Act, and*

2. The assessment, if applicable, withheld by the approved company in each year;

(d) The income tax credit for the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042;

(e) The assessments, if applicable, when added to the credit for the Kentucky income tax as provided in Section 10 of this Act, shall not exceed the total annual payment made under the financing agreement in connection with the project in any year; however, to the extent that this annual payment exceeds credits received and assessments collected in any year, this excess payment may be recouped from excess credits or assessment collections in succeeding years;

(f) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessments collected from the wages of the qualified statewide employees equals the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year;

(g) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax;

(h) If, in any fiscal year of the approved company during which the financing agreement is in effect, the assessment collected from the wages of qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments;

(i) The financing agreement may be assigned by the approved company only upon the prior written consent of the authority;

(j) An approved company shall require any lender to the approved company funding loans or other financing incurred in connection with the economic development project to provide written evidence to the authority of payments of all annual debt service to the lender. An approved company shall require any lessor under a lease subject to subsection (6)(b)4. of Section 2 of this Act to provide written evidence to the authority of payment of rent to the lessor. This evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year during the term of the financing agreement;

(k) If the total number of qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site;

(l) If an approved company fails to comply with its respective obligations under the financing agreement or is declared in default under the loans or other financing incurred in connection with the economic development project or the lease under subsection (6)(b)4. of Section 2 of this Act, or if the lender to an approved company or the lessor, as applicable, fails to comply with its requirements set forth in subsection (1)(j) of this section, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and assessments to the approved company;

2. Pursue any remedy provided under the financing agreement, including termination thereof; and

3. Pursue any other remedy at law to which it appears entitled; and

(m) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(2) All remedies provided in subsection (1)(l) of this section shall be deemed cumulative.

(3) Under this section, the activation date shall be established by the approved company in the financing agreement, which shall be at any time within a two (2) year period after the date of final approval of the financing agreement by the

authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the approved company's qualified statewide employees, and the affected local jurisdictions, if any, of the activation date when implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of Section 5 of this Act by the activation date, then the approved company shall not be entitled to receive inducements under Sections 1 to 16 of this Act until the approved company satisfies the requirements; in any event, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of Section 5 of this Act within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under Sections 1 to 16 of this Act.

SECTION 8. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Before any approved company engaged in service or technology activity is granted inducements under Sections 1 to 16 of this Act, a service and technology agreement with respect to the approved company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the service and technology agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to inclusion of the following mandatory provisions:

(a) The term of the service and technology agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year time period after the date of final approval of the service and technology agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(b) The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under Section 17 of this Act, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and Section 9 of this Act; and

2. The assessment, if applicable, withheld by the approved company in each year;

(c) The inducements allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed;

(d) If the total number of qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site;

(e) The service and technology agreement may be assigned by the approved company only upon the prior written consent of the authority; and

(f) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.

(4) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be up to a maximum of fifty percent (50%) of the start-up costs.

(5) Each year, during the ten (10) year term of the service and technology agreement, up to fifty percent (50%) of the annualized rent shall be added to the unrecouped balance of approved costs, and the inducements earned shall be subtracted from the approved costs.

(6) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the accumulated inducements equal the unrecouped remaining balance of the approved costs then expended, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year.

(7) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the remaining balance of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

(8) If, in any fiscal year of the approved company during which the service and technology agreement is in effect, the assessment collected from the wages of the qualified statewide employees exceeds the unrecouped remaining balance of

the approved costs then expended, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments.

SECTION 9. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If an eligible company operates an existing business in a qualified zone, and wishes to expand that business within the zone, the eligible company may submit an application to the authority to become an approved company under Section 5 of this Act.

(2) If the eligible company under subsection (1) of this section becomes an approved company, the authority shall determine a base level of employment in the Commonwealth, a base level of state income tax liability, and a base level of manufacturing or service or technology activity, as applicable, of the approved company for determining eligible credits for the approved company's project during the term of a financing agreement or service and technology agreement. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels during the preceding three (3) years. Notwithstanding the determination of a base level of employment in the Commonwealth, no qualified statewide employee who is an employee of this business prior to the date of the preliminary approval by the authority as prescribed in Section 6 of this Act shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing qualified statewide employees employed by the eligible company prior to preliminary approval, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, then another qualified statewide employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and this employee shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment that would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the qualified statewide employees.

(4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment in the Commonwealth, an increase at the site of the project of at least ten (10) new full-time qualified employees.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the financing agreement or service and technology agreement, as applicable, the base level of income tax, adjusted on an annual basis to reflect changes in the consumer price index. The excess income tax owed may be offset by the income tax credit provided in Section 10 of this Act.

(6) If any approved company expands in a qualified zone because of an increase in business or because of the commencement of a new line of business, it may be eligible, at the discretion of the authority, to negotiate a separate, additional financing agreement or service and technology agreement to cover the expanded business under the same conditions as authorized for an expansion in this section.

SECTION 10. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An approved company engaged in manufacturing or in service or technology activities shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax liability that would otherwise be due to the Commonwealth from the approved company attributable to its economic development project, as limited by the provisions of Section 9 of this Act.

(2) The Revenue Cabinet of the Commonwealth shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of qualified zone inducements on state revenues. The Revenue Cabinet shall certify to the authority, in the form of an annual report, aggregate income tax credits and assessments taken by approved companies with respect to their economic development projects under Sections 1 to 16 of this Act, and certify to the authority when an approved company has taken income tax credits and assessments equal to its total inducements. The Revenue Cabinet shall certify to the authority, upon written request of the authority, the aggregate income tax credits and assessments taken by an approved company with respect to its economic development project under Sections 1 to 16 of this Act.

SECTION 11. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If the local jurisdiction in which the economic development project is to be located, approves the assessment in accordance with subsection (8) of this section, then an approved company engaged in either manufacturing or service or technology activities may require each qualified statewide employee, as a condition to employment, to agree to pay a job development assessment fee in an amount determined by the percentage of the local occupational license fee, which

shall be one-fifth (1/5) of the total job development assessment fee, plus the Commonwealth's contribution of four-fifths (4/5) of the total job development assessment fee, but in no event to exceed five percent (5%) of the qualified statewide employee's gross wages exclusive of any noncash benefits; provided that each qualified statewide employee paying the assessment shall be entitled to credits against Kentucky income tax as prescribed in subsection (4) of this section and to credits against the local occupational license fee to the extent of the local occupational license fee collected by the local jurisdiction. This assessment shall be deducted by the approved company from wages it pays to qualified statewide employees.

(2) Notwithstanding subsection (1) of this section, if no local occupational license fee is assessed by any local government in which the project is located, the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth.

(3) Notwithstanding subsection (1) of this section, if a project is located in only one (1) local government and that local government has a local occupational license fee that is less than one percent (1%) and the local government agrees to forego all of its local occupational license fee or if a project is located in multiple local governments and the local governments have in the aggregate local occupational license fees that are less than one percent (1%) and the local governments agree to forego all of their local occupational license fees, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee or fees, as applicable, that the local government or local governments, as applicable, has or have agreed to forego.

(4) Each qualified statewide employee required to pay this assessment shall be entitled to certain credits, as follows:

- *(a) Credit against the required Kentucky income tax withheld from gross wages under Section 18 of this Act equal to the Commonwealth's contribution, but in no event to exceed four percent (4%) of these wages; and*
- *(b) Credit against the local occupational license fee imposed by any local government in which the project is located in the form of a simultaneous adjustment of the local occupational license fee withheld from gross wages excluding noncash benefits not to exceed one percent (1%) of these wages.*

(5) If more than one (1) local government jurisdiction imposes a local occupational license fee and all jurisdictions approve the assessment, then the assessment and employee credit therefor shall be prorated against the local occupational license fees imposed, unless a single local government jurisdiction agrees to forego receipt of its local occupational license fees in an amount equal to one percent (1%) of the qualified statewide employees' wages excluding noncash benefits, in which case no proration need be made.

(6) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.

(7) An approved company that collects an assessment shall make its payroll, books, and records available to the authority at its request, and shall provide all documentation pertaining to the assessment as the authority may require.

(8) Before any financing agreement or service and technology agreement becomes effective with respect to an assessment, the legislative body of any local government that assesses a local occupational license fee and shall lose revenue as a result of the assessment described in this section shall, by official action, approve the assessment for the benefit of an approved company. However, if a local government does not approve the assessment, then the approved company shall not be permitted to impose the assessment and the qualified statewide employees shall not be permitted to claim credits.

(9) Any assessment of the wages of qualified statewide employees of an approved company engaged in manufacturing activities in connection with their employment at an economic development project in subsection (1) of this section shall permanently lapse as of the date any loans or other financing, as described in Section 7 of this Act, incurred in connection with the economic development project mature or are prepaid in full for an approved company engaged in manufacturing activities or as of any date any lease under subsection (6)(b)4. of Section 2 of this Act terminates.

(10) Any assessment of the wages of qualified statewide employees of an approved company engaged in service or technology activities in connection with their employment at an economic development project shall permanently cease at the expiration of the service and technology agreement.

SECTION 12. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any county, urban-county government, or city of the first class for which the authority has certified a qualified zone may also apply for grant funds to be used for acquisition of and infrastructure improvements to real estate for economic development purposes and construction and installation for industry of buildings and fixtures.

(2) In addition to the inducements taken, an approved company may apply the amount of the inducements taken towards the purchase price of real estate, infrastructure improvements, buildings, and fixtures purchased, as set forth in subsection (1) of this section, by any county, urban-county government, or city of the first class. For these inducements taken to apply to the purchase price, the approved company shall have taken inducements equal to a minimum of fifty percent (50%) of the original cost of this real estate, infrastructure improvements, buildings, and fixtures.

SECTION 13. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS

FOLLOWS:

(1) Approved companies under Sections 1 to 16 of this Act that hire and employ Kentucky Transitional Assistance Program (K-TAP) recipients on a full-time basis shall be eligible, to the extent funds are available, to receive wage subsidies from the Kentucky Cabinet for Families and Children in KRS Chapter 205, Title IV-A of the Federal Social Security Act (Subchapter 4 of Chapter 7 of Title 42, United States Code), and the administrative regulations of the Cabinet for Families and Children that address standards and eligibility requirements for K-TAP and subsidized employment.

(2) The wage subsidy for a K-TAP recipient shall be equal to a proportionate amount of the prevailing wage paid by the approved company to all other employees in the same job classification as the K-TAP recipient for one (1) year as follows:

(a) A seventy-five percent (75%) subsidy for the first four (4) months of employment;

(b) A fifty percent (50%) subsidy for the next four (4) months of employment; and

(c) A twenty-five percent (25%) subsidy for the next four (4) months of employment.

(3) During the period of the wage subsidy, the Cabinet for Families and Children shall reimburse the employer contribution for FICA and Unemployment Insurance made on behalf of K-TAP recipients.

(4) The Cabinet for Families and Children shall collect information to determine the eligibility of recipients and the availability of this subsidy for approved companies.

SECTION 14. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall establish the procedures and standards for certification of qualified zones, and determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

SECTION 15. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director or officer of the authority shall be subject to any personal liability or accountability by reason of the execution of any financing agreement or service and technology agreement on behalf of the authority.

SECTION 16. A NEW SECTION OF SUBCHAPTER 23 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 16 of this Act shall be known as the Kentucky Economic Opportunity Zone Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in Section 2 of this Act;

(b) "Economic development project" shall have the same meaning as set forth in Section 2 of this Act; and

(c) "Tax credit" means the "tax credit" allowed under Sections 1 to 16 of this Act.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited liability company treated as a corporation for federal income tax purposes shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in Sections 1 to 16 of this Act.

(4) Notwithstanding any other provisions of this chapter, an approved company that is an S-corporation, partnership, registered limited liability partnership, limited liability company treated as a partnership for federal income tax purposes, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), as follows:

(a) The amount of the tax credit shall be the same as the amount of the tax computed in this subsection or, upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this

paragraph shall be in satisfaction of the tax liability of the shareholders, partners, members, or beneficiaries of the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust, and shall be paid on behalf of the shareholders, partners, members, or beneficiaries.

(b) The tax credit or estimated payment shall not exceed the limits set forth in Sections 1 to 16 of this Act.

(c) If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust at the times provided by KRS 141.160 for filing the returns.

(d) Any estimated tax payment made by the S-corporation, partnership, registered limited liability partnership, limited liability company, or trust in satisfaction of the tax liability of shareholders, partners, members, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the shareholder, partner, member, or beneficiary.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, member's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, registered limited liability partnership, limited liability company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 16 of this Act and the allowable income tax credit that an approved company may retain under Sections 1 to 16 of this Act.

Section 18. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

(8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee. If the Kentucky income tax to be withheld from the employee under this section is greater than four-fifths (4/5) of the job assessment fee set forth above, the excess shall be withheld. If the agreement under KRS 154.24-150 is consummated, the offset shall be one hundred percent (100%) of the assessment.

(10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.22-070 ***or KRS 154.28-110*** may offset~~[a portion of]~~ the fee against the Kentucky income tax required to be withheld from the employee under this section.~~[The amount of the offset shall be equal to the amount of the assessment fee withheld from the employee.]~~

(11) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee~~[. If the Kentucky income tax to be withheld from the employee under this section is greater than two-thirds (2/3) of the job assessment fee set forth above]~~, or~~[four-fifths (4/5)]~~ if the agreement under KRS 154.26-090(1)(d)2.b. is consummated, ***the offset shall be four-fifths (4/5) of the assessment fee***~~[the excess shall be withheld]~~.

(12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in ***Section 11 of this Act***~~[KRS 154.22-070]~~ may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the ***Commonwealth's contribution as determined by subsections (1) to (3) of Section 11 of this Act***~~[amount of the assessment fee withheld from the employee]~~.

(13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars ($50,000).

(14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 19. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 154.22-070(2), 154.24-110, 154.26-100(2), ***KRS 154.28-110 or Section 11 of this Act***~~[or KRS 154.28-090]~~ shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

SB 372, AN ACT relating to a pilot program for tax increment financing in counties containing a city of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context otherwise requires:

(1) "Agency" means an urban renewal and community development agency of a taxing district located within a county containing a city of the first class, established under KRS Chapter 99; a development authority located within a county, containing a city of the first class established under KRS Chapter 99; a nonprofit corporation located within a county containing a city of the first class established under KRS Chapter 58; or a designated department, division, or office of a city of the first class or a county containing a city of the first class;

(2) "Development area" means an area no less than one (1) square mile, nor more than six (6) square miles, designated in need of public improvements by a local or state government in a county containing a city of the first class, a project

area as defined in KRS 99.615, or a public project as defined in KRS 58.010 in a county containing a city of the first class. "Development area" includes an existing economic development asset;

(3) "Increment" means that amount of money received by any taxing district or the state that is determined by subtracting the amount of old revenues from the amount of new revenues in any year for which a taxing district or the state and an agency have agreed upon under the terms of a contract of release or a grant contract;

(4) "Local government" means a county containing a city of the first class;

(5) "New revenues" means the revenues received by any taxing district or the state from a development area in any year after the establishment of the development area;

(6) "Old revenues" means the amount of revenues received by any taxing district or the state from a development area in the last year prior to the establishment of the development area;

(7) "Project" means any urban renewal, redevelopment, or public project undertaken in accordance with the provisions of Sections 1 to 5 of this Act, any project undertaken in accordance with KRS 99.610 to 99.680, or any project undertaken in accordance with the provisions of KRS Chapter 58;

(8) "Release" or "contract of release" or "grant contract" means that agreement by which a taxing district or the state permits the payment to an agency of a portion of increments or an amount equal to a portion of increments received by it in return for the benefits accrued to the taxing district or the state by reason of a project undertaken by an agency in a development area; and

(9) "Taxing district" means a county containing a city of the first class or a city of the first class that encompasses all or part of a development area, or the state but does not mean a school district.

(10) "Pilot program" means a tax increment financing program or a grant program created by an agency within a county containing a city of the first class which shall exist for a period of twenty (20) years after which time it shall continue only after reauthorization by the General Assembly.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) It is found and declared that public improvements, and publicly promoted private improvements, in any development area that result in the increase in the value of property located in the development area or result in increased employment within the development area serve a public purpose for each taxing district possessing the authority, directly or indirectly, to impose ad valorem taxes, sales taxes, income taxes, or occupational license fees in the development area, and for the state with regards to its revenues from ad valorem taxes, sales taxes, and income taxes. The increment in revenues derived by each taxing district and the state from the development area is found and declared to be one of the benefits derived by each taxing district and the state from any local development project or public project undertaken by the agency; and

(2) It is found that the use of tax increment financing or a grant program based upon the use of increment financing as tax revenues has proved to be successful and of great benefit to areas in need of revitalization and development in other parts of the country; therefore, the development of a pilot program within the Commonwealth to test the usefulness of increment financing to assist local governments in restoring and revitalizing their communities is declared to be a most worthy public purpose.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A county containing a city of the first class or a city of the first class may establish a development area for the purpose of creating a pilot program to utilize tax increment financing or a grant program based upon the increment in state tax revenues for the redevelopment and revitalization of these development areas within their communities.

(2) A development area in a county containing a city of the first class shall be located within ten (10) miles of the central business district of the largest city within the county and shall be within one (1) mile of one (1) or more economic development assets having employers, with at least one thousand (1,000) employees, who will leverage and promote investment in the zone.

(3) A development area in a county containing a city of the first class shall have adequate roads, sewers, water, rail service, and an interstate highway interchange directly available.

(4) At least fifty percent (50%) of a development area in a county containing a city of the first class, excluding roads, utility easements, and other infrastructure-related improvements, shall be composed of land that is a brownfield site or other land compatible for industrial or commercial uses to permit and facilitate redevelopment and reuse of land in the development area compatible with the adjacent economic development assets.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) In connection with the establishment of any development area, an agency may enter into contracts with one (1) or more taxing districts for the release to the agency of increments expected to be derived by a taxing district within a development area with an existing development asset as leveraged in part by the undertaking of a project.

(2) No contract shall require the release of less than fifty percent (50%) of the increments, or more than ninety-five percent

(95%) of the increments where the revenue is derived solely from ad valorem taxation or solely from occupational license fees, or more than eighty percent (80%) of the increments where the revenue is derived from ad valorem taxes and occupational license fees.

(3) An agency may enter into a contract with the state, acting by and through the Governor, for an annual grant to the agency in an amount equal to not less than fifty percent (50%) nor more than eighty percent (80%) of the increment in ad valorem, sales, and income taxes derived by the state within the development area with an existing economic development asset as leveraged in part by the undertaking of a project.

(4) Any amount derived by the agency under the terms of a release shall be used solely for the purposes of the project and in the development area.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Each taxing district is authorized to execute a contract of release with any agency in acknowledgment of benefits to be derived by it within the development area with an existing economic development asset as leveraged in part by the undertaking of a project, and in order to promote the public purposes of the taxing district.

(2) Any contract signed for the release of increments shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the contract.

(3) The state, acting by and through the Governor, is authorized to execute a grant contract with any agency in acknowledgment of benefits to be derived by it with the development area with an existing economic development asset as leveraged in part by the undertaking of a project, and in order to promote the public purpose of the state.

(4) Any grant contract signed for an amount equal to the increment derived from the development area shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the contract.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any agency, other than a county, city, urban-county, or charter county government, that enters into a contract with any taxing district for the release of any increments that may arise during the period of a contract of release shall forthwith notify the official charged with the collecting of taxes for the property in the development area of the execution of a contract of release, and the official charged with the collection of taxes shall in each year a contract of release is in effect determine the amount of the increment that is the subject of the contract of release for division between the taxing district and the agency; and, upon the basis of the agreement made between the taxing district and the agency, the official shall divide and distribute the funds derived from the area between the taxing district and the agency. Any local government that has designated an agency as having oversight of a designated development area shall annually issue a release to the agency of those increments created from the taxes collected on properties within the development area. All increments released to an agency of a local government shall be used solely for the purposes of projects in the development area.

Section 7. The following KRS sections are repealed:

99.751 Definitions for KRS 99.756 to 99.771.

99.756 Purpose.

99.761 Contracts for release of increments to agency by taxing districts.

99.766 Automatic renewals of contracts of release.

99.771 Notification to tax collector -- Distribution of funds.

SB 394, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-100 is amended to read as follows:

(1) If an approved company's financing agreement in effect prior to July 15, 1996, stipulates that the approved company elects to impose a six percent (6%) job development assessment fee pursuant to KRS 154.22-070 as in effect prior to July 15, 1996, the approved company, subject to provisions of subsection (2) of this section, may elect to change the job development fee rate from six percent (6%) as prescribed in KRS 154.22-070 as in effect prior to July 15, 1996, to four percent (4%) as set forth in KRS 154.22-070.

(2) An approved company may elect to reduce the job assessment fee rate as prescribed in subsection (1) of this section if the financing agreement respecting the approved company's approved project is amended upon written approval of all parties thereto, ~~[provided, however, the approval is granted by June 30, 1997,]~~and the approved company attests in writing to the satisfaction of the authority that the approved company has not entered into any other agreement by which the company has pledged the proceeds of a six percent (6%) job development assessment fee as partial or full payment of any debt or other obligation to any other party.

SCR 111, A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of state economic development programs in Kentucky.

WHEREAS, the mission of the Commonwealth's economic development programs is to achieve the best quality of life for all Kentuckians; and

WHEREAS, one component of the Commonwealth's economic development system is a set of programs, as set forth in KRS Chapter 154 and certain sections of KRS Chapter 42, that offer various financial incentives to approved businesses; and

WHEREAS, these programs have resulted in the creation of thousands of jobs in the Commonwealth through the extension of incentives to approved businesses; and

WHEREAS, a sufficient performance record has been established to conduct a thorough review of these programs to better determine if all regions of the Commonwealth benefit from the incentives offered to approved companies;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Interim Joint Committee on Economic Development and Tourism is directed to study for the Commonwealth the performance and effectiveness of the state's economic development programs. The study shall focus upon whether all regions of the state have benefited from these programs and whether certain modifications should be made if these programs are determined to have systemic deficiencies.

Section 2. The findings of the Interim Joint Committee on Economic Development and Tourism shall be presented to the Legislative Research Commission no later than October 1, 2001. Proposed legislation may be submitted to the 2002 Regular Session of the Kentucky General Assembly.

SCR 113, A CONCURRENT RESOLUTION relating to small business.

WHEREAS, small business is the backbone of our state's economy; and

WHEREAS, the Subcommittee on Small Business Regulation of the Interim Joint Committee on Economic Development and Tourism examined the effects of regulation on Kentucky's small businesses during the 1998-99 interim; and

WHEREAS, the Subcommittee on Small Business Regulation of the Interim Joint Committee on Economic Development and Tourism found that administrative regulations promulgated by state agencies can be unduly burdensome to the growth and vitality of small business; and

WHEREAS, the Subcommittee on Small Business Regulation of the Interim Joint Committee on Economic Development and Tourism recommends that state agencies consult with the small business community when promulgating administrative regulations to better assess their impact and to consider alternatives that will ease the impact of administrative regulations on small business; and

WHEREAS, the Subcommittee on Small Business Regulation of the Interim Joint Committee on Economic Development and Tourism recommends the creation of a state-level small business advocacy function to assist small businesses with the regulatory process and advocate for the small business community; and

WHEREAS, the issues facing small businesses within the Commonwealth continue to be of concern to the General Assembly;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. There is hereby reauthorized for the 2000-01 interim a Subcommittee on Small Business Regulation of the Interim Joint Committee on Economic Development and Tourism. The subcommittee shall provide a forum in which small business concerns may be addressed in order to assist government agencies in considering the interests of small businesses as they create policies and establish administrative regulations.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on State Government reported **SB 379** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 379, AN ACT relating to senatorial districts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 5.107 is amended to read as follows:

The Seventh Senatorial District shall consist of the following territory:

					---CENSUS---	
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
BULLITT						
JEFFERSON	B112		PRECINCT 112 29 DISTRICT			
JEFFERSON	B113		PRECINCT 113 29 DISTRICT			
JEFFERSON	B114		PRECINCT 114 29 DISTRICT			
JEFFERSON	B115		PRECINCT 115 29 DISTRICT			
JEFFERSON	B116		PRECINCT 116 29 DISTRICT			
JEFFERSON	B117		PRECINCT 117 29 DISTRICT			
JEFFERSON	B119		PRECINCT 119 29 DISTRICT			
JEFFERSON	B120		PRECINCT 120 29 DISTRICT			
JEFFERSON	B121		PRECINCT 121 29 DISTRICT			
JEFFERSON	B123		PRECINCT 123 29 DISTRICT			
JEFFERSON	I126		PRECINCT 126 37 DISTRICT			
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***101***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***102***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***103***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***104***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***105***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***106***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***107***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***108***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***109***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***110***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***111***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***112***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***113***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***114***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***201***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***202***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***203***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***204***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***205***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***206***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***207***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***208***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***209***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***210***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***211***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***212***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***216***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***217***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***218***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***219***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***220***	
JEFFERSON	***J123***		***PRECINCT 123 38 DISTRICT***	***2003***	***303***	
~~[JEFFERSON~~	~~J123~~		~~PRECINCT 123 38 DISTRICT]~~			

JEFFERSON	J124	PRECINCT 124 38 DISTRICT
JEFFERSON	P106	PRECINCT 106 45 DISTRICT
JEFFERSON	P110	PRECINCT 110 45 DISTRICT
JEFFERSON	P111	PRECINCT 111 45 DISTRICT
JEFFERSON	P112	PRECINCT 112 45 DISTRICT
JEFFERSON	P113	PRECINCT 113 45 DISTRICT
JEFFERSON	P114	PRECINCT 114 45 DISTRICT
JEFFERSON	P115	PRECINCT 115 45 DISTRICT
JEFFERSON	P116	PRECINCT 116 45 DISTRICT
JEFFERSON	Q105	PRECINCT 105 46 DISTRICT
JEFFERSON	Q113	PRECINCT 113 46 DISTRICT
JEFFERSON	Q114	PRECINCT 114 46 DISTRICT
JEFFERSON	Q117	PRECINCT 117 46 DISTRICT
JEFFERSON	Q118	PRECINCT 118 46 DISTRICT
JEFFERSON	Q119	PRECINCT 119 46 DISTRICT
JEFFERSON	Q120	PRECINCT 120 46 DISTRICT
JEFFERSON	Q121	PRECINCT 121 46 DISTRICT

Section 2. KRS 5.137 is amended to read as follows:

The Thirty-seventh Senatorial District shall consist of the following territory:

				---CENSUS---		
COUNTY	PREC	SECT	NAME	TRACT	BLCK	SECT
JEFFERSON	A101		PRECINCT 101 28 DISTRICT			
JEFFERSON	A103		PRECINCT 103 28 DISTRICT			
JEFFERSON	A104		PRECINCT 104 28 DISTRICT			
JEFFERSON	A105		PRECINCT 105 28 DISTRICT			
JEFFERSON	A107		PRECINCT 107 28 DISTRICT			
JEFFERSON	A108		PRECINCT 108 28 DISTRICT			
JEFFERSON	A111		PRECINCT 111 28 DISTRICT			
JEFFERSON	A113		PRECINCT 113 28 DISTRICT			
JEFFERSON	A114		PRECINCT 114 28 DISTRICT			
JEFFERSON	A115		PRECINCT 115 28 DISTRICT			
JEFFERSON	A117		PRECINCT 117 28 DISTRICT			
JEFFERSON	A118		PRECINCT 118 28 DISTRICT			
JEFFERSON	A119		PRECINCT 119 28 DISTRICT			
JEFFERSON	B101		PRECINCT 101 29 DISTRICT			
JEFFERSON	B102		PRECINCT 102 29 DISTRICT			
JEFFERSON	B103		PRECINCT 103 29 DISTRICT			
JEFFERSON	B105		PRECINCT 105 29 DISTRICT			
JEFFERSON	B106		PRECINCT 106 29 DISTRICT			
JEFFERSON	B107		PRECINCT 107 29 DISTRICT			
JEFFERSON	B108		PRECINCT 108 29 DISTRICT			
JEFFERSON	B109		PRECINCT 109 29 DISTRICT			
JEFFERSON	B110		PRECINCT 110 29 DISTRICT			
JEFFERSON	B111		PRECINCT 111 29 DISTRICT			
JEFFERSON	I122		PRECINCT 122 37 DISTRICT			
JEFFERSON	I123		PRECINCT 123 37 DISTRICT			
JEFFERSON	I124		PRECINCT 124 37 DISTRICT			
JEFFERSON	I125		PRECINCT 125 37 DISTRICT			

JEFFERSON	J110	PRECINCT 110 38 DISTRICT			
JEFFERSON	J117	PRECINCT 117 38 DISTRICT			
JEFFERSON	J120	PRECINCT 120 38 DISTRICT			
JEFFERSON	J122	PRECINCT 122 38 DISTRICT			
JEFFERSON	***J123***	***PRECINCT 123 38 DISTRICT***	***2003***	***301***	
JEFFERSON	***J123***	***PRECINCT 123 38 DISTRICT***	***2003***	***302***	***0201***
JEFFERSON	J126	PRECINCT 126 38 DISTRICT			
JEFFERSON	K118	PRECINCT 118 40 DISTRICT			
JEFFERSON	K119	PRECINCT 119 40 DISTRICT			
JEFFERSON	K120	PRECINCT 120 40 DISTRICT			
JEFFERSON	K123	PRECINCT 123 40 DISTRICT			
JEFFERSON	O105	PRECINCT 105 44 DISTRICT			
JEFFERSON	O107	PRECINCT 107 44 DISTRICT			
JEFFERSON	O109	PRECINCT 109 44 DISTRICT			
JEFFERSON	O111	PRECINCT 111 44 DISTRICT			
JEFFERSON	O112	PRECINCT 112 44 DISTRICT			
JEFFERSON	O113	PRECINCT 113 44 DISTRICT			
JEFFERSON	O114	PRECINCT 114 44 DISTRICT			
JEFFERSON	O115	PRECINCT 115 44 DISTRICT			
JEFFERSON	O117	PRECINCT 117 44 DISTRICT			
JEFFERSON	O119	PRECINCT 119 44 DISTRICT			
JEFFERSON	O120	PRECINCT 120 44 DISTRICT			
JEFFERSON	O121	PRECINCT 121 44 DISTRICT			
JEFFERSON	O122	PRECINCT 122 44 DISTRICT			
JEFFERSON	O123	PRECINCT 123 44 DISTRICT			
JEFFERSON	O124	PRECINCT 124 44 DISTRICT			
JEFFERSON	O126	PRECINCT 126 44 DISTRICT			
JEFFERSON	P104	PRECINCT 104 45 DISTRICT			
JEFFERSON	P105	PRECINCT 105 45 DISTRICT			

Section 3. Whereas, under KRS 117.056, county boards of election may not change election precinct boundaries from July 15, 2000 until completion of state legislative and congressional redistricting, an emergency is declared to exist, and this Act shall take effect on June 15, 2000.

The Committee on Appropriations and Revenue reported **SB 49,** with House Committee Substitute and House Committee Amendment attached thereto, **SB 288,** with House Committee Substitute attached thereto, **SB 323,** and **SJR 114** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 49, AN ACT relating to income tax and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1997, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;~~[and]~~

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from ***the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998***~~[a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement]~~; ***and***

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;~~[and]~~

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998; and

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The provisions of this Act shall retroactively apply to tax years beginning after December 31, 1998.

Section 3. Whereas the filing deadline for income taxes is April 15, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The House Committee Substitute No. 1 to **SB 49** is as follows:

SB 49, AN ACT relating to income tax and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1997, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;~~[and]~~

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from ***the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998***~~[a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement]~~;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of the tobacco quota allotted from the 1998 to the 1999 calendar year as provided under Public Law 106-78 Title 8 sec. 803;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;[~~ and~~]

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998; and

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the

Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the Tobacco Price Support Program administered by the United States Department of Agriculture under 7 U.S.C. sec. 1314 is the best and most efficient means of preserving the economic health of thousands of tobacco farms throughout the United States and throughout Kentucky. The purpose of Sections 2 to 7 of this Act is to ensure that any contracts or contracting practices for the purchase of tobacco in Kentucky protect the public interest in the continued efficient operation of the Tobacco Price Support Program, and that all these contracts be negotiated and implemented in a manner that will not impair or undermine that program, which is vital to the economic health of Kentucky's rural areas. To the extent that any contracting practices or contracts entered into between a tobacco handler and producers undermine or impair the continued efficient operation of the Tobacco Price Support Program, these practices and contracts are not in the public interest of the people of Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 7 of this Act:

(1) "Handler" means any person engaged in the business or practice of:

(a) Acquiring tobacco from producers;

(b) Contracting or negotiating contracts or other arrangements, written or oral, with or on behalf of producers, with respect to the production or marketing of tobacco; or

(c) Acting as an agent or broker for a handler in the performance of any function or act specified in paragraph (a) or (b) of this subsection.

(2) "Producer" means a person engaged in the production of tobacco as a farmer, quota holder, grower, tenant, lessor, lessee, or in any other capacity.

(3) "Acquiring" means purchasing, bartering, contracting for future delivery of, or otherwise obtaining any legal or equitable interest in tobacco.

(4) "Public auction" means an auction sale at which tobacco is offered by a warehouse for a producer at regular tobacco auction sales before a full set of buyers.

(5) "Small producer" means a producer who grows five thousand (5,000) pounds or less of tobacco.

(6) "Tobacco" means burley tobacco type thirty-one (31).

(7) "Commission" means the Tobacco Contracting Commission established in Section 4 of this Act.

(8) "Model contract" means a contract that has been negotiated by the commission with a handler to use for agreements by the handler to purchase tobacco from producers. These terms and conditions of the model contract are recommended to be used in all contracts for the purchase of tobacco by that handler from producers.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) A Tobacco Contracting Commission is hereby established. The commission shall be attached to the Department of Agriculture for administrative purposes.

(2) The Commissioner of Agriculture, or the Commissioner's designee, and the Attorney General, or the Attorney General's designee, shall be ex officio, voting members of the commission.

(3) The commission shall have eight (8) additional voting members appointed by the Governor. These members shall serve terms not to exceed four (4) years.

(4) The Governor shall appoint:

(a) Two (2) members from a list of six (6) persons nominated by the Burley Tobacco Growers Cooperative;

(b) Two (2) members from a list of six (6) persons nominated by the Kentucky Farm Bureau Federation;

(c) Two (2) members from a list of six (6) persons nominated by the Burley Farmers Advisory Council;

(d) One (1) member from a list of three (3) persons nominated by the Community Farm Alliance; and

(e) One (1) at-large member.

(5) The Governor shall further appoint as nonvoting members one (1) representative of the University of Kentucky College of Agriculture, and one (1) representative of the United States Department of Agriculture farm service agency.

(6) The Governor shall ensure that one (1) of each two (2) members appointed to the commission under subsection (4)(a), (b), or (c) of this section is a small producer.

(7) The chair of the commission shall be elected by the commission.

(8) The Governor, in making appointments to the commission under subsection (4) of this section, shall ensure that the composition of the commission includes representation from eastern Kentucky, western Kentucky, and central Kentucky, and that the commission has at least one (1) African-American member.

(9) Except as provided in KRS 18A.200, commission members not already employed by the state shall be reimbursed for any actual expense incurred while performing commission duties.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Any handler of tobacco that desires to purchase tobacco directly from producers shall notify the chair of the commission, by certified mail, by December 1 of the calendar year preceding the growing year for which the tobacco handler seeks to enter into tobacco purchase contracts. The chair of the commission shall immediately inform all members of the commission of any notifications.

(2) When a handler intends to use a model contract for the purchase of tobacco from producers, negotiations between a handler and the commission to determine the content and structure of the model contract shall be commenced as soon as practicable before that growing season.

(3) The commission shall work with every handler to develop a model contract that is acceptable to each handler of tobacco that seeks to purchase tobacco directly from producers.

(4) The model contracts negotiated by the commission with tobacco handlers shall comply with the provisions of Sections 2 to 7 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Each handler of tobacco that desires to purchase tobacco directly from producers shall be encouraged to offer a model contract to producers.

(2) The terms of the model contracts shall be negotiated between each handler and the commission, but any producer or association of producers may negotiate additional terms and conditions of a contract with any handler.

(3) All handlers shall have an affirmative duty to negotiate in good faith with the commission.

(4) No handler shall discriminate, in contracting for tobacco, against any producer based on the volume of tobacco available for contract sales from that producer. All producers, regardless of size of quota, who desire to contract with handlers shall be given equal opportunity to do so.

SECTION 7. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Any producer or association of producers is free to negotiate the terms and conditions of its own contracts for the purchase of tobacco with tobacco handlers. Handlers shall have a duty to bargain in good faith with any producer or association of producers.

(2) The producer or producer's association shall be given the opportunity to have any proposed contract reviewed outside the business premises of the handlers or their agents by an attorney or advisor of the producer's choosing prior to execution.

(3) Contracts shall be written in plain English.

(4) Contracts shall give the producer the right to cancel a contract until 12 midnight of the third business day after the day on which the producer signs the contract.

(5) Notice of cancellation under this section shall be given to the handler by the producer at the place of business as set forth in the contract by certified mail, return receipt requested, which shall be posted not later than 12 midnight on the third business day following execution of the contract.

(6) Notice of cancellation given to the handler by the producer need not take any particular form and, however expressed, is effective if it indicates the intention of the producer not to be bound by the tobacco contract.

Section 8. (1) The Tobacco Task Force is directed to study the development of contracting for tobacco growing and sales and examine what the role of the state should be with regard to tobacco contracting. The task force shall research the issues and recommend strategies for the 2002 General Assembly. The research shall include but not be limited to: examining programs in other states regarding contracting for agricultural commodities; structuring a proposed framework for a state tobacco contracting program in Kentucky; working with other states to establish a regional uniform state burley tobacco contracting system; and preparing the initial steps that Kentucky may need to take to enter into such a program or regional system.

(2) The task force shall hold no less than four (4) meetings to carry out the purposes of subsection (1) of this section. The task force shall, at a minimum, seek testimony from the Kentucky Farm Bureau, the Community Farm Alliance, the Burley Tobacco Growers Cooperative Association, the Council for Burley Tobacco, the University of Kentucky College of Agriculture, the Burley Farmers Advisory Council, the tobacco manufacturers who purchase burley tobacco in Kentucky, the Governor's Office of Agriculture Policy, the Department of Agriculture, and other states that have or are proposing similar contracting legislation.

(3) The task force shall report to the Legislative Research Commission and the Interim Joint Committee on Agriculture and Natural Resources no later than September 15, 2001. In the event that the Federal Tobacco Price Support Program ends before the report is due, the task force shall immediately advise the Legislative Research Commission and the Governor's Office on the steps to take to best protect the interests of the state and the state's tobacco producers.

Section 9. The provisions of Section 1 of this Act shall retroactively apply to tax years beginning after December 31, 1998.

Section 10. Whereas the filing deadline for income taxes is April 15 and contracts for growing tobacco may be submitted to producers at any time, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The House Committee Amendment No. 1 Title to **SB 49** is as follows:

On page 1, title line, by changing the title to read "AN ACT relating to mechanisms determining tobacco income and the tax treatment of tobacco income."

SB 288, AN ACT relating to state group health insurance, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) To facilitate the need for comprehensive and efficient planning, implementation, and administration of a state employee health insurance program, the Kentucky Group Health Insurance Board is created. The board shall be attached to the Personnel Cabinet for administrative purposes only. The board shall consist of seven (7) members as follows:

(a) The secretary of the Finance and Administration Cabinet;

(b) The secretary of the Personnel Cabinet;

(c) The state budget director;

(d) The commissioner of education;

(e) The chair of the Advisory Committee of State Health Insurance Subscribers;

(f) The commissioner of insurance, ex officio; and

(g) The Auditor of Public Accounts, ex officio.

(2) The members of the board shall elect from among its members a chair and a vice-chair.

(3) Regular meetings of the board shall be held at least once every month at a place, day, and time determined by the board. Special meetings of the board shall be held when needed as determined by the chair. If four (4) or more members of the board request in writing that the chair call a special meeting, the chair shall call a special meeting. The meetings shall operate in accordance with the provisions of the Open Meetings Law under KRS 61.805 to 61.850.

(4) Members of the board shall receive reimbursement for necessary expenses for attendance at official board meetings or public hearings.

(5) The Kentucky Group Health Insurance Board shall:

(a) Engage in analyses and research to identify the factors and parameters that affect the state group health insurance program;

(b) Develop and transmit, by October 1 of each year beginning October 1, 2001, to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, policy recommendations regarding benefit options and management of the state group health insurance program; and

(c) Provide in the first report, due by October 1, 2001, the following:

1. Analysis and discussion of methods used by all other states to provide health insurance benefits to their state group;

2. Analysis and discussion of the cost, enrollment, claims, and utilization data for calendar year 2000 on the Kentucky state group;

3. Recommendations including, but not limited to, appropriate structures for the state contribution rate, possible methods to mitigate adverse selection, competitive plan designs by type and benefit options, the feasibility of a state self-insurance plan, and strategies for evaluating third-party administrators and vendors.

Section 2. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state~~[and including any federally funded time-limited employee]~~. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky*, except that a member who is*

receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included.

(2) ***(a)*** The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health~~[, hospitalization, medical, major medical, and dental]~~ insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health ***care***~~[, hospitalization, medical, and major medical insurance or health maintenance organization]~~ coverage ***including, but not limited to, indemnity, health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans*** encompassing all or any class or classes of state employees.~~[Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994.]~~ All state employees and other persons for whom the ***health care***~~[insurance or health maintenance organization]~~ coverage is provided or made available shall annually be given an option to elect ***health care coverage through a self-funded plan offered by the state or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment***~~[standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside]~~.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to members of the state group shall agree to provide coverage to all members of the state group, including both active employees and retirees within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to members of the state group shall also agree to rate all such members of the state group as a single entity, except for those retirees whose former employers insure their active employees outside the state health insurance program.

(d) Any carrier bidding to offer health care coverage to any member of the state group shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and, to be subject to penalties for noncompliance of data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual member; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall provide to the General Assembly in June of each year an analysis of enrollment, claims, and utilization data of all carriers for the prior plan year ending December 31. The report shall include, but not be limited to, loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, paid dependent coverage, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state employee health insurance program for its active members terminates participation in the state employee health insurance program for its active members and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the agency nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

~~[It is intended that standard insurance, health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.]~~

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel

Cabinet, may procure from one (1) or more dental insurance companies,[~~ one (1) or more health maintenance organizations,~~] one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304,[~~ the health insurance agency described in KRS 42.800 to 42.825,~~] or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage[~~, health maintenance organization coverage,~~] or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health ***care***[~~maintenance organization~~] coverage or[~~ prepaid~~] dental[~~ plan~~] coverage***, if any, in excess of***[~~over~~] the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other ***health care***[~~insurance~~] coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a ***managed health care plan***[~~health maintenance organization~~] or of a prepaid dental plan[~~ organization~~], under which he has elected coverage, into either the service area of another ***managed health care plan***[~~health maintenance organization~~] or prepaid dental plan[~~ organization~~] or into an area of the state not within a ***managed health care plan***[~~health maintenance organization~~] service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to ***change his or her coverage to another health care plan or dental plan***[~~elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825~~].

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health ***care plans***[~~insurance carriers~~] during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining ***health care coverage and dental coverage***[~~insurance, prepaid dental plan organization coverage, and health maintenance organization coverage~~] under the provisions of this section.

(10) Group rates under[~~ the insurance or health maintenance organization coverage acquired under~~] this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health ***care***[~~insurance~~] contract or contracts for state employees shall be entered into for a period of not less than ***one (1) year***[~~two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986~~].

(12) The secretary shall appoint ***twenty-six (26)***[~~twenty-four (24)~~] persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, ***two (2) members representing the Kentucky Teachers' Retirement System,*** and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in ***January***[~~November~~] of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

Section 3. KRS 161.158 is amended to read as follows:

(1) ***(a)*** Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees ***including the state employee health insurance group as described in Section 2 of this Act***, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280(5), board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.

(b) If a district board of education participates in the state employee health insurance program, as described in Section 2 of this Act, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

(2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. The deductions shall be made from salaries earned in at least eight (8) different pay periods, and shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction provided the district has received appropriate invoices or necessary documentation. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.

(3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

Section 4. KRS 161.675 is amended to read as follows:

(1) (a) The board of trustees shall enter into contracts with insurance carriers or other health care providers for the purpose of providing a program of hospital and medical insurance coverage to members who are age sixty-five (65) or older and retired for service. ***Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in Section 2 of this Act.***

(b) The board of trustees may enter into contracts with insurance carriers or other health providers for the purpose of providing a broad program of hospital and medical insurance coverage to members below age sixty-five (65) who are retired for service or disability and to the surviving spouse of deceased members who are eligible to receive the member's retirement benefits as provided in KRS 161.525.

(c) The board of trustees may offer, on a cost basis, coverage of spouses and dependents not eligible for regular coverage.

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS 161.510 and 161.607(2), to qualify for the coverage. The board of trustees shall offer coverage to the disabled child of a retired member regardless of the disabled child's age if the retired member pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by

making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

Section 5. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is qualified under the requirements of the United States Department of Health, Education and Welfare, except as provided in subsection (4) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties, charter county, and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employees and elected officers, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employees and elected officers. The plan may require employees to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, charter county, urban-county government, or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employees and elected officers and by the city, county, charter county, urban-county government, or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, charter county, urban-county government, or agency. Each city, county, charter county, urban-county government, or agency may make rules and regulations and do all other things necessary in the establishment and operation of the plan.

(3) Cities of all classes, counties, charter counties, urban-county governments, the agencies of cities, counties, charter counties, and urban-county governments, and all other political subdivisions of the state may provide disability, hospitalization, or other health or medical care coverage to their officers and employees, including their elected officers, through independent or cooperative self-insurance programs and may cooperatively purchase the coverages.

(4) Any city, county, charter county, or urban-county government which is a contributing member to any one (1) of the retirement systems administered by the state may participate in the state health insurance coverage program for state employees as defined in KRS 18A.225 to 18A.229. Should any city, county, charter county, or urban-county government opt at any time to participate in the state health insurance coverage program, it shall do so for a minimum of three (3) consecutive years. If after the three (3)-year participation period, the city, county, charter county, or urban-county government chooses to terminate participation in the state health insurance coverage program, it will be excluded from further participation for a period of three (3) consecutive years. ***If a city, county, charter county, or urban-county government, or one (1) of its agencies, terminates participation of its active employees in the state health insurance coverage program and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the unit of government, or its agency, nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.*** The three (3)-year participation and exclusion cycles shall take effect each time a city, county, charter county, or urban-county government changes its participation status.

(5) Any city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance organization coverage to its employees and elected officers, shall annually give its employees an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside; except that if any city, county, charter county, urban-county government, or agencies of any city, county, charter county, urban-county government, or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the city, county, charter county, urban-county government, or agencies of the city, county, charter county, urban-county government, or any other political subdivision of the state may annually give its employees an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees

reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons, for any other hospitalization benefit shall be paid by the employee.

(6) If an employee moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(7) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(8) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

(9) After August 1, 1988, except as permitted by KRS 65.156, no new retirement plan shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city, county, charter county, urban-county, or agency thereof which provided a retirement plan for its employees, pursuant to this section, on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The city, county, charter county, urban-county, or agency thereof shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

Section 6. KRS 18A.227 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the federal Internal Revenue Code;

(b) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government, and who is a contributing member to any one (1) of the retirement systems administered by the state~~[, and including a federally funded time-limited employee]~~;

(c) "Cabinet" shall mean the Personnel Cabinet;

(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and

(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.

(2) As part of the employee benefits provided to state employees under this chapter, the cabinet may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.

(3) Options available under the plan may include, but are not limited ***to***:

(a) Health ***insurance***~~[care]~~ coverage;

(b) ***Managed health care***~~[Health maintenance organization]~~ coverage;

(c) Catastrophic illness coverage;

(d) Dental insurance;

(e) Term life insurance-accidental, death, or dismemberment;

(f) Vision insurance;

(g) Long term disability insurance;

(h) Long term medical care; and

(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the cabinet determines to be in the best interests of state employees.

(4) ***An employee shall work or be in paid leave status for at least one hundred (100) hours per month or otherwise qualify for benefits under the federal Family and Medical Leave Act in order to qualify for a state contribution toward health***

care coverage or health care flexible spending accounts benefits.

(5) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse of a retiree, under any one of the Kentucky Retirement Systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of employment under KRS Chapter 16, KRS Chapter 18A, or KRS Chapter 151B.

(6) Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction. The election shall be made in writing; and once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status*, other change of status, or special enrollment rights under the federal Health Insurance Portability and Accountability Act of 1996* which necessitates a revision of his benefit election.

(7)~~[(5)]~~Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent the benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.

Section 7. Whereas it is necessary to implement the provisions of this Act as soon as practicable in order to complete data analysis in conjunction with the state health insurance contract cycle, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The House Committee Substitute No. 1 to **SB 288** is as follows:

SB 288, AN ACT relating to state group health insurance, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) To facilitate the need for comprehensive and efficient planning, implementation, and administration of a state employee health insurance program, the Kentucky Group Health Insurance Board is created. The board shall be attached to the Personnel Cabinet for administrative purposes only. The board shall consist of seven (7) members as follows:

- *(a) The secretary of the Finance and Administration Cabinet;*
- *(b) The secretary of the Personnel Cabinet;*
- *(c) The state budget director;*
- *(d) The commissioner of education;*
- *(e) The chair of the Advisory Committee of State Health Insurance Subscribers;*
- *(f) The commissioner of insurance, ex officio; and*
- *(g) The Auditor of Public Accounts, ex officio.*

(2) The members of the board shall elect from among its members a chair and a vice-chair.

(3) Regular meetings of the board shall be held at least once every month at a place, day, and time determined by the board. Special meetings of the board shall be held when needed as determined by the chair. If four (4) or more members of the board request in writing that the chair call a special meeting, the chair shall call a special meeting. The meetings shall operate in accordance with the provisions of the Open Meetings Law under KRS 61.805 to 61.850.

(4) Members of the board shall receive reimbursement for necessary expenses for attendance at official board meetings or public hearings.

(5) The Kentucky Group Health Insurance Board shall:

- *(a) Engage in analyses and research to identify the factors and parameters that affect the state group health insurance program;*
- *(b) Develop and transmit, by October 1 of each year beginning October 1, 2001, to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, policy recommendations regarding benefit options and management of the state group health insurance program; and*
- *(c) Provide in the first report, due by October 1, 2001, the following:*
    - *1. Analysis and discussion of methods used by all other states to provide health insurance benefits to their state group;*
    - *2. Analysis and discussion of the cost, enrollment, claims, and utilization data for calendar year 2000 on the Kentucky state group;*
    - *3. Recommendations including, but not limited to, appropriate structures for the state contribution rate which shall include recommendations on increasing the state contribution to provide support for dependent coverage, possible methods to mitigate adverse selection, competitive plan designs by type and*

benefit options, the feasibility of a state self-insurance plan, and strategies for evaluating third-party administrators and vendors.

Section 2. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state~~[and including any federally funded time-limited employee]~~. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky***, except that a member who is receiving a retirement allowance from the Teachers' Retirement System and who is age sixty-five (65) or older shall not be included***.

(2) ***(a)*** The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health~~[, hospitalization, medical, major medical, and dental]~~ insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health ***care***~~[, hospitalization, medical, and major medical insurance or health maintenance organization]~~ coverage ***including, but not limited to, indemnity, health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans*** encompassing all or any class or classes of state employees.~~[Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994.]~~ All state employees and other persons for whom the ***health care***~~[insurance or health maintenance organization]~~ coverage is provided or made available shall annually be given an option to elect ***health care coverage through a self-funded plan offered by the state or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment***~~[standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside]~~.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to members of the state group shall agree to provide coverage to all members of the state group, including both active employees and retirees within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to members of the state group shall also agree to rate all such members of the state group as a single entity, except for those retirees whose former employers insure their active employees outside the state health insurance program.

(d) Any carrier bidding to offer health care coverage to any member of the state group shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic

form and within a time frame specified by the Personnel Cabinet; and, to be subject to penalties for noncompliance of data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual member; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) *The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall provide to the General Assembly in June of each year an analysis of enrollment, claims, utilization data of all carriers for the prior plan year ending December 31, and on the financial stability of the program. The report shall include, but not be limited to, loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, paid dependent coverage, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.*

(f) *If any agency participating in the state employee health insurance program for its active members terminates participation in the state employee health insurance program for its active members and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the agency nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.*

(g) *Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state health insurance plan's appropriation account.*

[~~It is intended that standard insurance, health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.~~]

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies,[~~ one (1) or more health maintenance organizations,~~] one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304,[~~ the health insurance agency described in KRS 42.800 to 42.825,~~] or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage[~~, health maintenance organization coverage,~~] or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health *care*[~~maintenance organization~~] coverage or[~~ prepaid~~] dental[~~ plan~~] coverage*, if any, in excess of*[~~over~~] the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other *health care*[~~insurance~~] coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a *managed health care plan*[~~health maintenance organization~~] or of a prepaid dental plan[~~ organization~~], under which he has elected coverage, into either the service area of another *managed health care plan*[~~health maintenance organization~~] or prepaid dental plan[~~ organization~~] or into an area of the state not within a *managed health care plan*[~~health maintenance organization~~] service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to *change his or her coverage to another health care plan or dental plan*[~~elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825~~].

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of

insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health ***care plans***[~~insurance carriers~~] during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining ***health care coverage and dental coverage***[~~insurance, prepaid dental plan organization coverage, and health maintenance organization coverage~~] under the provisions of this section.

(10) Group rates under[~~ the insurance or health maintenance organization coverage acquired under~~] this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health ***care***[~~insurance~~] contract or contracts for state employees shall be entered into for a period of not less than ***one (1) year***[~~two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986~~].

(12) The secretary shall appoint ***twenty-six (26)***[~~twenty-four (24)~~] persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, ***two (2) members representing the Kentucky Teachers' Retirement System,*** and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in ***January***[~~November~~] of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

Section 3. KRS 161.158 is amended to read as follows:

(1) ***(a)*** Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees ***including the state employee health insurance group as described in Section 2 of this Act***, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280(5), board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.

(b) If a district board of education participates in the state employee health insurance program, as described in Section 2 of this Act, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

(2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. The deductions shall be made from salaries earned in at least eight (8) different pay periods, and shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction provided the district has received appropriate invoices or necessary documentation. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.

(3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

Section 4. KRS 161.675 is amended to read as follows:

(1) (a) The board of trustees shall enter into contracts with insurance carriers or other health care providers for the purpose of providing a program of hospital and medical insurance coverage to members who are age sixty-five (65) or older and retired for service. ***Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in Section 2 of this Act.***

(b) The board of trustees may enter into contracts with insurance carriers or other health providers for the purpose of providing a broad program of hospital and medical insurance coverage to members below age sixty-five (65) who are retired for service or disability and to the surviving spouse of deceased members who are eligible to receive the member's retirement benefits as provided in KRS 161.525.

(c) The board of trustees may offer, on a cost basis, coverage of spouses and dependents not eligible for regular coverage.

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS 161.510 and 161.607(2), to qualify for the coverage. The board of trustees shall offer coverage to the disabled child of a retired member regardless of the disabled child's age if the retired member pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

Section 5. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is qualified under the requirements of the United States Department of Health, Education and Welfare, except as provided in subsection (4) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties, charter county, and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employees and elected officers, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employees and elected officers. The plan may require employees to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, charter county, urban-county government, or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employees and elected officers and by the city, county, charter county, urban-county government, or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, charter county, urban-county government, or agency. Each city, county, charter county, urban-county government, or agency may make rules and regulations and do all other things necessary in the establishment and operation of the plan.

(3) Cities of all classes, counties, charter counties, urban-county governments, the agencies of cities, counties, charter counties, and urban-county governments, and all other political subdivisions of the state may provide disability, hospitalization, or other health or medical care coverage to their officers and employees, including their elected officers, through independent or cooperative self-insurance programs and may cooperatively purchase the coverages.

(4) Any city, county, charter county, or urban-county government which is a contributing member to any one (1) of the retirement systems administered by the state may participate in the state health insurance coverage program for state employees as defined in KRS 18A.225 to 18A.229. Should any city, county, charter county, or urban-county government opt at any time to participate in the state health insurance coverage program, it shall do so for a minimum of three (3) consecutive years. If after the three (3)-year participation period, the city, county, charter county, or urban-county government chooses to terminate participation in the state health insurance coverage program, it will be excluded from further participation for a period of three (3) consecutive years. ***If a city, county, charter county, or urban-county government, or one (1) of its agencies, terminates participation of its active employees in the state health insurance coverage program and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the unit of government, or its agency, nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.*** The three (3)-year participation and exclusion cycles shall take effect each time a city, county, charter county, or urban-county government changes its participation status.

(5) Any city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance organization coverage to its employees and elected officers, shall annually give its employees an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside; except that if any city, county, charter county, urban-county government, or agencies of any city, county, charter county, urban-county government, or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the city, county, charter county, urban-county government, or agencies of the city, county, charter county, urban-county government, or any other political subdivision of the state may annually give its employees an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons, for any other hospitalization benefit shall be paid by the employee.

(6) If an employee moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(7) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(8) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

(9) After August 1, 1988, except as permitted by KRS 65.156, no new retirement plan shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city, county, charter county, urban-county, or agency thereof which provided a retirement plan for its employees, pursuant to this section, on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The city, county, charter county, urban-county, or agency thereof shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

Section 6. KRS 18A.227 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the federal Internal Revenue Code;

(b) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government, and who is a contributing member to any one (1) of the retirement systems administered by the state~~[, and including a~~

~~federally funded time-limited employee~~];

(c) "Cabinet" shall mean the Personnel Cabinet;

(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and

(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.

(2) As part of the employee benefits provided to state employees under this chapter, the cabinet may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.

(3) Options available under the plan may include, but are not limited ***to***:

(a) Health ***insurance***[~~care~~] coverage;

(b) ***Managed health care***[~~Health maintenance organization~~] coverage;

(c) Catastrophic illness coverage;

(d) Dental insurance;

(e) Term life insurance-accidental, death, or dismemberment;

(f) Vision insurance;

(g) Long term disability insurance;

(h) Long term medical care; and

(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the cabinet determines to be in the best interests of state employees.

(4) ***Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse of a retiree, under any one of the Kentucky Retirement Systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of employment under KRS Chapter 16, KRS Chapter 18A, or KRS Chapter 151B.***

(5) Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction. The election shall be made in writing; and once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status***, other change of status, or special enrollment rights under the federal Health Insurance Portability and Accountability Act of 1996*** which necessitates a revision of his benefit election.

(6)[~~(5)~~]Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent the benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.

Section 7. Whereas it is necessary to implement the provisions of this Act as soon as practicable in order to complete data analysis in conjunction with the state health insurance contract cycle, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 323, AN ACT relating to the taxation of property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.820 is amended to read as follows:

(1) The cabinet shall ***annually*** value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the Revenue Cabinet as a distinct interest in real property, separate and apart from the surface real estate.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, ***list their property with the cabinet by filing***[~~file~~] a return with the cabinet in a form as the cabinet may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the cabinet to file a return.

(3) ***Commencing with the 2001 tax year, the cabinet shall no less than once every four (4) years review each property listing using available geologic data. The cabinet shall maintain a record of the review for each parcel which includes the dates of the examination and the results of the review. If the cabinet assesses any property at a different value than that resulting from the taxpayer's listing based upon geologic data, the cabinet shall notify the taxpayer in the cabinet's***

notice of assessment.

(4) Any property subject to assessment by the cabinet under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(5)[~~(4)~~]After the valuation of unmined minerals or other energy sources has been finally fixed by the cabinet, the cabinet shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

(6)[~~(5)~~]The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(7)[~~(6)~~]No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(8)[~~(7)~~]The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

(9) Any assessment of unmined coal or other minerals may be reviewed by the Revenue Cabinet after the filing of the return. If upon review, the cabinet finds that the assessment or the amount of taxes due should be increased due to revaluation or reclassification based upon information available at the time the return was filed, the cabinet shall give notice of the revised assessment to the taxpayer as provided under KRS 131.110 within five (5) years after the due date of the return. Upon the revised assessment being final, the tax bill shall be handled and collected as an omitted property tax bill and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

Section 2. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent the property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The Revenue Cabinet shall have sole power to ***annually*** value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the cabinet, and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the cabinet pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the cabinet under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

(4) Commencing with the 2001 tax year, the cabinet shall no less than once every four (4) years review the taxpayer report made under KRS 136.130 using independent industry and market data and research and regulating authority reports. The cabinet shall maintain a record of the review for each taxpayer.

SJR 114, A JOINT RESOLUTION requiring executive branch agencies to submit a strategic plan along with their 2002-2004 budget requests to the General Assembly and establishing a pilot program to evaluate the feasibility of performance budgeting in the Commonwealth.

WHEREAS, the General Assembly believes that state agencies could improve the quality of services delivered to citizens of the Commonwealth through the institution of effective strategic planning; and

WHEREAS, the General Assembly is committed to ensuring that the state budgeting system provides improved accountability and effective budget control on behalf of the citizens of the Commonwealth; and

WHEREAS, the current state budgeting system does not provide performance information about state programs; and

WHEREAS, several local, state, and federal governments have adopted performance-based budgeting as a means to improved accountability and effective budget control; and

WHEREAS, the state budgeting system is large, complex, and critical to the functioning of all state agencies and government programs; and

WHEREAS, significant changes to the state budgeting system should be undertaken only after research is conducted that demonstrates that the changes will yield improvements that exceed the cost of implementation; and

WHEREAS, the task of describing the state budgeting system, and evaluating potential changes to the state budgeting system, is a major undertaking that would best be served by the involvement of a variety of entities with a complementary set of skills and corresponding experience; and

WHEREAS, a budget cycle is composed of the preparation, approval, execution, and evaluation phases that, all together, last longer than two years, and only initial phases of a change in the budgeting system can be evaluated by the 2002 Regular Session of the General Assembly;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The managers of each cabinet level budget unit in the executive branch of state government shall develop a four-year strategic plan to meet the broad goals outlined by the Governor, and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan with the FB 2002-2004 budget request.

(1) Each strategic plan shall include, but not be limited to, a statement of the cabinet's mission, identification of goals for the next four years, specification of objectives for meeting the goals, and definition of performance indicators to be used to measure progress toward meeting specified objectives.

(2) The State Budget Director shall designate an entity to develop and conduct a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers, and their designees, who have responsibility for the completion of a strategic plan required in subsection (1) of this section.

(3) The Governor's Office of Technology shall identify a uniform electronic strategic plan submission form and a procedure that allows all plans to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950 to 48.960.

Section 2. The State Budget Director shall work with the Legislative Research Commission to conduct a study of the use of performance budgeting by governments comparable to the Commonwealth and report the findings to the Governor and the Legislative Research Commission, who shall distribute the report to the appropriate legislative committees for review.

(1) The study shall consult academic and applied research on performance budgeting in state government from a wide variety of sources.

(2) The study shall focus on issues and practices most relevant to the Commonwealth.

Section 3. The Auditor of Public Accounts shall conduct a study of the existing flow of budget information as it originates from executive branch budget units and is transmitted forward to commissioners, cabinet secretaries, the Governor's Office of Policy and Management, the Governor, the Legislative Research Commission, and the General Assembly.

(1) By September 30, 2000, the Auditor shall submit a report to the Governor and the Legislative Research Commission, who shall distribute the report to the appropriate legislative committees for review, that contains sections including, but not limited to, a complete description of the existing flow of budget information throughout state government, with particular focus on a detailed baseline description of the features and cost of the budgeting structure of the pilot budget units selected in Section 4 of this Resolution.

(2) The Auditor shall submit recommendations for improving the quality, quantity, usefulness, and monetary value of budget information in the current budgeting system.

(3) The Auditor shall submit recommendations for structuring the flow of budget information to better support performance budgeting.

Section 4. (1) The State Budget Director shall design and implement a state performance budgeting pilot program.

(a) The State Budget Director shall develop a state performance budgeting pilot project research design that will allow reliable conclusions to be drawn about the efficacy of implementing performance budgeting across all executive branch agencies in the Commonwealth. Prior to its implementation, the research design shall be submitted for review and comment by those knowledgeable in the area including, but not limited to, the Auditor of Public Accounts and the Legislative Research Commission.

(b) Based on criteria specified in the research design, the State Budget Director shall select no less than three nor more than six budget units in the executive branch and institute a pilot performance budgeting structure in those units. Implementation shall include collection of sufficient and valid data on the time needed for implementation, costs associated with implementation, and specific departmental changes required for implementation. Implementation shall also include submission of draft budget forms for the pilot units that meet the provisions of KRS 48.040.

(c) A performance budgeting pilot project fund shall be established in the office of the State Budget Director to defray extraordinary expenses related to implementation of the pilot project. The State Budget Director shall have the authority to make disbursements from the fund to units that incur costs related to the pilot project. Information about each disbursement, including but not limited to, the specific reason for the disbursement, a description of how the expense is related to the implementation of performance budgeting in the receiving unit, and a discussion of why the expense cannot be covered within the normal cost of budget information reporting, shall be reported quarterly beginning October 15, 2000, to the Auditor and the Legislative Research Commission, who shall forward the information to the Interim Joint Committee on Appropriation and Revenue and the Program Review and Investigations Committee.

(d) Each budget unit selected for the pilot project shall submit a performance-based budget request for FB 2002-2004, in addition to its regular budget request.

(e) For each unit selected for the pilot project, the Legislative Research Commission, through its director, shall work with the State Budget Director to develop procedures for making the performance budgeting information available to members of the General Assembly.

(f) The Auditor of Public Accounts shall monitor the progress of the performance budgeting pilot project and shall, by February 1, 2002, present a report to the Governor and the Legislative Research Commission, who shall forward the report to the appropriate legislative committees for review.

(2) The report shall include, but not be limited to:

(a) An evaluation of the initial phases of the performance budgeting pilot project and a determination of whether it provides valid results about the efficacy of performance budgeting in the executive branch and whether those results can be generalized to other departments in the executive branch of state government;

(b) Recommendations regarding whether the pilot project should end or whether its continuation and expansion would yield valuable additional information;

(c) If the pilot project yields valid conclusions about the initial phases of performance budgeting for executive agencies of the Commonwealth, the report shall include recommendations on whether the Governor and the 2002 General Assembly should develop a systematic multiyear plan for implementation of performance budgeting across all state agencies and, if so, the suggested timetable for that implementation and the preferred design features of the performance budgeting structure to be implemented; and

(d) Recommendations for improving the efficiency and accountability of the current budgeting system, irrespective of any recommendations about performance budgeting.

Section 5. The Program Review and Investigations Committee shall give high priority to directing its ongoing attention and resources to efforts to evaluate and improve the effectiveness, efficiency, and accountability of agencies of the Commonwealth.

The Committee on Appropriations and Revenue reported **SB 1, SB 77,** with House Committee Substitutes and House Committee Amendment attached thereto, and **SB 227,** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute No. 2 to **SB 77** is as follows:

SB 77, AN ACT relating to professional development for middle school mathematics teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

(1) "Center" means the Center for Middle School Academic Achievement;

(2) "Fund" means the Teachers' Professional Growth Fund;

(3) "Middle school" means grades five (5) through eight (8), regardless of school or district configuration; and

(4) "Reliable, replicable research" means objective, valid, scientific studies that:

(a) Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;

(b) Rely on measurements that meet established standards of reliability and validity;

(c) Test competing theories, where multiple theories exist; and

(d) Are subjected to peer review before results are published.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Teachers' Professional Growth Fund is hereby created to provide teachers with high quality professional development in content knowledge in the core disciplines of mathematics, science, language arts, and social studies as well as teaching methodologies to impart the content to students. During the years 2000 to 2004, priority for funding shall be given to middle school teachers, and based upon available funds, and in subsequent years, funding shall be made available to teachers in all grade levels in the subject areas listed in this subsection. During the years 2000 to 2002, funds shall be directed to improving the content knowledge of mathematics by middle school teachers, and in subsequent years, the Department of Education, under provisions of this section, shall determine the priority for content emphasis.

(2) The fund may provide moneys to teachers for:

(a) Tuition reimbursement for successful completion of college or university level courses approved for this purpose by the Education Professional Standards Board;

(b) Stipends for participation in and successful completion of:

1. College or university courses approved for this purpose by the Education Professional Standards Board;

2. Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS Chapter 156.097; and

3. Other professional development programs approved by Kentucky Department of Education; and

(c) Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:

1. Travel to and from professional development workshops; and

2. Travel to and from other schools for the observation of, and consultation with, peer mentors.

(3) The Education Professional Standards Board shall determine the college and university courses for which teachers may receive reimbursement from the fund.

(4) The Department of Education shall:

(a) Administer the fund;

(b) Determine the professional development programs for which teachers may receive reimbursement from the fund;

(c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsections 2(a) to 2(c) of this section; and

(d) Provide an accounting of fund expenditures to the Center for Middle School Academic Achievement, upon request of the center, for use in preparing the center's annual report.

(5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:

(a) Focus on improving the content knowledge of core discipline teachers;

(b) Provide instruction on teaching methods, to effectively impart core discipline content knowledge to all students;

(c) Include intensive training institutes and workshops during the summer;

(d) Provide programs for the ongoing support of teacher participants throughout the year, which may include:

1. A peer coaching or mentoring, and assessment program; and

2. Planned activities, including:

a. Follow-up workshops; and

b. Support networks of teachers of the core disciplines using technologies including, but not limited to, telephone, video, and on-line computer networks; and

(e) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.

(6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:

(a) The application and approval process for receipt of funds;

(b) The requirements and process for the disbursal of funds; and

(c) The number of each kind of approved course for which applicants may receive funds.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Center for Middle School Academic Achievement is created to improve the content knowledge and instructional practice of middle school mathematics teachers through the coordination of professional development programs for middle school teachers, the provision of technical assistance to schools and teachers, and the collection and dissemination of information and research regarding effective models of teaching the core disciplines to middle school students.

(2) The center shall:

(a) Foster collaboration between the center, the Department of Education, the Education Professional Standards Board, postsecondary institutions of education, postsecondary departments or colleges of arts and sciences, and other entities to develop content-based teacher preparation programs and ongoing professional development programs for middle school teachers, aligned with the Department of Education's core content for assessment;

(b) Assist school districts in assessing and addressing their needs and deficiencies in middle school curriculum and instruction;

(c) Assist middle school teachers in establishing and maintaining networks of communication to share information regarding middle school instructional practice, curriculum development, and other areas of common interest, building upon existing networks;

(d) Develop and maintain a clearinghouse for information about:

1. Educational models addressing content knowledge and skills of middle school students, based on reliable, replicable research;

2. Core content achievement levels of Kentucky students in relation to students in other states and other countries; and

3. The relationship between student achievement levels and curriculum content, curriculum structure and alignment with content, teacher training, and teaching methods;

(e) Develop and implement a research structure, in collaboration with the Department of Education, to evaluate the effectiveness of different middle school instructional models; and

(f) Submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year. The report shall include information outlining the center's activities, information provided by the Kentucky Department of Education regarding the use of money from the Teachers' Professional Growth Fund, and other information regarding efforts to improve the quality of middle school instruction in Kentucky.

(3) With the advice of the Commissioner of Education and the Education Professional Standards Board, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Center for Middle School Academic Achievement at a public or private college or university. The council shall choose a college or university that has demonstrated the coordination of course delivery between the faculties of the college of education and arts and sciences departments within the college or university. The council shall approve the location for the center no later than November 15, 2000.

SECTION 4. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) There is created a commission to be composed of the commissioner of education, the president of the Council on Postsecondary Education, the executive director of the Education Professional Standards Board, the president of the Association of Kentucky Independent Colleges and Universities, three (3) members of the Kentucky Board of Education that are chosen by the board, the commissioner of the Department for Adult Education and Literacy, and three (3) members of the Council on Postsecondary Education that are chosen by the council. The commission shall be known as the P-16 Commission.

(2) The purposes of the commission shall be to:

(a) Promote cooperation and communication among elementary, secondary, postsecondary, and adult education teachers and administrators;

(b) Study areas of curricula, management, and policy that support or restrict an effective, seamless system of education;

(c) Advocate the elimination of barriers impeding student transition from preschool through baccalaureate programs;

(d) Inform and advise the legislature and the respective education councils, boards of education, the general public

including parents, students, and teachers, boards of trustees, and boards of regents on relevant education matters; and

(e) Suggest programs to increase the number and diversity of students pursuing postsecondary education that persuade parents and students to plan early for advanced education.

(3) The commission shall annually determine a working agenda; set meeting dates; establish working groups; sponsor appropriate research; suggest ways to improve coordination of education resources; and establish timetables for making recommendations as appropriate.

(4) The commissioner of education and the president of the council shall provide staff support for the work of the commission.

(5) During the year 2000, as the initial phase to achieve its purpose, the commission shall conduct a review of the curricula alignment among elementary, middle, secondary, and postsecondary education, including teacher preparation programs. They shall report to the Interim Joint Committee on Education their findings and recommendations by January 1, 2001.

SECTION 5. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall establish statewide standards for evaluation and support for improving the performance of all certified school personnel.

(2) The performance criteria on which teachers and administrators shall be evaluated shall include, but not be limited to:

(a) Performance of professional responsibilities related to his or her assignment , including attendance and punctuality and evaluating results;

(b) Demonstration of effective planning of curricula, classroom instruction, and classroom management, based on research-based instructional practices, or school management skills based on validated managerial practices;

(c) Demonstration of knowledge and understanding of subject matter content or administrative functions and effective leadership techniques;

(d) Promotion and incorporation of instructional strategies or management techniques that are fair and respect diversity and individual differences;

(e) Demonstration of effective interpersonal, communication, and collaboration skills among peers, students, parents, and others;

(f) Performance of duties consistent with the goals for Kentucky students and mission of the school, the local community, laws, and administrative regulations;

(g) Demonstration of the effective use of resources, including technology;

(h) Demonstration of professional growth;

(i) Adherence to the professional code of ethics; and

(j) Attainment of the teacher standards or the administrator standards as established by the Education Professional Standards Board that are not referenced in paragraphs (a) to (i) of this subsection.

(3) The certified employee evaluation programs shall contain the following provisions:

(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the Kentucky Department of Education.

(b) The local evaluation system shall include formative evaluation and summative evaluation.

1. "Formative evaluation" means a continuous cycle of collecting evaluation information and interacting and providing feedback with suggestions regarding the certified employee's professional growth and performance; and

2. "Summative evaluation" means the summary of, and conclusions from, the evaluation data, including formative evaluation data, that:

a. Occur at the end of an evaluation cycle; and

b. Include a conference between the evaluator and the evaluated certified employee, and a written evaluation report.

(c) The Kentucky Board of Education shall adopt administrative regulations, incorporating written guidelines for a local school district to follow in developing, implementing, and revising the evaluation system and shall require the following:

1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;

2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator.

At the request of a teacher observations by other teachers trained in the teacher's content area or curriculum content specialists may be incorporated into the formative process for evaluating teachers;

3. *All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;*
4. *Evaluators shall be trained, tested, and approved in accordance with administrative regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;*
5. *The evaluation system shall include a plan whereby the person evaluated is given assistance for professional growth as a teacher or administrator. The system shall also specify the processes to be used when corrective actions are necessary in relation to the performance of one's assignment; and*
6. *The training requirement for evaluators contained in subparagraph 4. of this paragraph shall not apply to district board of education members.*

(4) A local district may request from the Kentucky Department of Education a waiver from the guidelines and administrative regulations promulgated by the Kentucky Board of Education as required in subsection (3)(c) of this section in order to implement an alternative evaluation plan for employees on continuing contracts. The department shall grant a waiver if the alternative plan provides for a three (3) phase certified employee evaluation plan that includes:

(a) Phase One: Evaluation for Professional Growth.

1. *Evaluation is based on a wide array of relevant sources and directed toward general and specific recommendations for improvement; and*
2. *Evaluation does not include documentation that might adversely affect employment status.*

(b) Phase Two: Transition.

1. *Evaluation is for the purpose of intensive scrutiny of job performance;*
2. *Evaluation includes documentation that may lead to adverse employment decisions;*
3. *Assistance and support for improvement shall be provided by the school district; and*
4. *Placement of an individual in the transition phase shall not be subject to appeal, but the employee shall be notified of the decision in writing.*

(c) Phase Three: Evaluation for Deficiency.

1. *Notwithstanding KRS 161.760, written notice of potential termination, reduction of direct classroom responsibility, or other adverse actions and conditions for job retention are given the employee;*
2. *A clear time frame for proposed actions is provided the employee; and*
3. *The summative evaluation is subject to appeal.*

An alternative plan for the evaluation of certified personnel shall be proposed to the Kentucky Department of Education if the local district evaluation committee is in support of the plan. Training necessary to implement the alternative plan shall be provided to the principals, supervisory personnel, and the employees to be evaluated. The local district shall provide support to implement the plan. The department shall provide technical assistance to districts wishing to develop alternative evaluation plans.

(5) The Kentucky Board of Education shall establish an appeals procedure for certified school employees who believe that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personnel evaluations.

(6) The local board of education shall establish an evaluation appeals panel for certified personnel that shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation. In districts that have adopted an alternative evaluation plan under subsection (4) of this section, the appeal shall only apply to the summative evaluation of Phase Three.

(7) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall have an evaluation system but shall be exempt from procedures or processes described in this section as long as the plan meets the standards established by the Kentucky Board of Education for local school district evaluation systems. The local plan shall include an appeals process for employees who believe they were not fairly evaluated.

(8) Between July 15, 2000, and June 30, 2001, each school district shall review its local evaluation system to assure that the system is working effectively and to make changes to improve its system.

(9) Beginning with the 2001-2002 school year and subsequent years, the Kentucky Department of Education shall

annually provide for on-site visits by trained personnel to a minimum of fifteen (15) school districts to review and insure appropriate implementation of the evaluation system by the local school district. The department shall provide technical assistance to local districts to eliminate deficiencies and to improve the effectiveness of their evaluation systems. The department may implement the requirement in this subsection in conjunction with other requirements, including but not limited to the scholastic audit process required by KRS 158.6455.

SECTION 6. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 2001, the Kentucky Department of Education, with help from representatives of the Education Professional Standards Board, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Association of Independent Kentucky Colleges and Universities, public and private not-for-profit postsecondary institutions, and local educational agencies, shall develop a plan, including timelines for implementation, for a multidimensional recruitment and information program, to encourage persons to enter the teaching profession and to seek employment in Kentucky.

(2) The program shall not supplant or diminish current efforts required in KRS 161.165.

(3) The components of the program shall include:

(a) Early recruitment programs to inform middle and high school students about the potential of teaching as a career;

(b) Programs to encourage paraprofessionals in schools, as well as other nontraditional students, to pursue additional education to become teachers;

(c) Programs to enlist highly skilled career employees in specific content areas to pursue teaching as a second career;

(d) Options for recruiting persons with liberal arts and sciences majors and current students with nondeclared majors into nontraditional and accelerated teacher preparation programs;

(e) Marketing strategies for informing the public of the importance of high quality teaching to student achievement, the value of teachers to society as a whole, the benefits and rewards of teaching, and the options for entering teacher preparation, including scholarship information;

(f) Establishing pilot programs relating to the purposes listed in paragraphs (a) to (e) of this subsection throughout the state, based upon available funds appropriated for these purposes; and

(g) Expanding the Kentucky Department of Education's electronic bulletin board for certified vacancies in local school districts to include an option for potential teachers to voluntarily post their availability for education positions within the state.

(4) For fiscal year 2001-2002, based upon available funds for this purpose, the Department of Education shall award grants to selected educational agencies through a competitive request for proposal process for pilot or demonstration projects to fulfill one (1) or more purposes of the recruitment into teaching programs as listed in subsection (3) of this section.

(5) No later than March 15, 2001, the Department of Education shall present a status report of the recruitment and information program to the Interim Joint Committee on Education; and no later than October 15, 2001, the Department of Education shall present to the Interim Joint Committee on Education and the Interim Joint Committee on Appropriations and Revenue a summary report with recommendations.

SECTION 7. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) By January 15, 2001, the Education Professional Standards Board shall define "out-of-field" teaching and inform all local school districts of the definition. The board shall review its policies relating to emergency certificates as it develops a definition and consider if these policies contribute to the problem of out-of-field teaching.

(2) By October 15, 2001, the Education Professional Standards Board shall identify every teacher assigned classes out-of-field in the 2001-2002 school year and shall inform the Kentucky Department of Education.

(3) The Kentucky Department of Education shall provide to each school district a summary of the teachers identified as teaching out-of-field and give the district opportunity to correct the situation during the year. Effective with the 2002-2003 school year and subsequent school years, the Kentucky Department of Education shall deduct from the funds allocated to the school district under KRS 157.360 a proportional amount of funds for each class period a teacher is assigned to an out-of-field class. The funds shall be calculated on the placement of the teacher on the biennial budget salary schedule for rank and experience. The fund deduction shall be from the next payment to the district after the out-of-field calculations have been determined. No teacher shall be reduced in salary due to being involuntarily moved out-of-field or being hired into a position out of his or her field. Emergency certification shall not be a valid reason for reducing any certified teacher's salary. No vacancy shall be filled by a person out-of-field if there is a certified candidate for the position.

SECTION 8. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Education Professional Standards Board shall rank teachers as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.

Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.

Rank IV. Those holding emergency certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

Rank V. Those holding emergency certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(2) In determining ranks, the Education Professional Standards Board shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The board, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(3) For purposes of the state salary schedule only as referenced in Section 13 of this Act, rank shall be determined on September 15 of each year.

(4) Nothing in this section shall allow the Education Professional Standards Board by regulation to reclassify downward any teachers in Ranks II or I.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No postsecondary education institution shall receive funds from the Council on Postsecondary Education from any trust fund for the purposes of teacher education or model programs of teaching and learning unless the Education Professional Standards Board has certified to the council that the institution has met the following conditions:

(1) The college or university has developed viable partnerships with local school districts and schools;

(2) There is evidence of ongoing dialogue and collaboration among liberal arts and sciences faculty and administrators with faculty and administrators in the department, school, or college of education;

(3) The college or university has demonstrated a commitment to participate in teacher academies;

(4) The college or university has an active recruitment plan for attracting and retaining minority faculty as well as students, and particularly in the department, school, or college of education;

(5) The college or university has initiated the development of incentives or rewards for faculty across the institution to participate in service activities to local schools;

(6) The department, school, or college of education has developed at least one (1) accelerated alternative plan for teacher education or nontraditional program of teacher preparation, or commits to developing an accelerated alternative or nontraditional program;

(7) The department, school, or college of education provides consistent and quality classroom and field experiences, including early practicums and student teaching experience for all students;

(8) The department, school, or college of education has as an element of its curriculum, substantial course work and classroom and field experiences directly addressing teacher training in classroom management;

(9) There are no major accreditation deficiencies; and

(10) The institution has demonstrated at least one (1) or more innovations in teacher education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) In recognition of valuable service to the preparation of teachers and the need for all teachers to have continual professional growth, a supervising teacher or a resource teacher for teacher interns may, with prior approval of the course-offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution and pay no tuition. The postsecondary institution shall waive the tuition up to a maximum of six (6) credit hours.

(2) The teachers covered in this section may exercise the tuition-free course option, only if there is available space within a given course offering. A postsecondary institution shall not be required to establish a course to meet teacher requests.

(3) The tuition-free courses may be used to partially satisfy requirements for an advanced degree.

(4) Each public postsecondary education institution shall establish the procedures for implementing the provisions of this section, effective August 1, 2000.

Section 11. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include ***assisting with needs assessments, analyzing school data,*** planning and evaluation assistance***, organizing district-wide programs requested by school councils or groups of teachers,*** or ***other*** coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.

(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:

(a) Curriculum content and methods of instruction for each content area;

(b) School-based decision making;

(c) Performance-based student assessment;

(d) Nongraded primary programs;

(e) Research-based instructional practices;

(f) Instructional uses of technology;

(g) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(h) Instruction of phonics; and

(i) Educational leadership.

(4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts ***and school councils*** with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in ***subject matter academies,*** teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, ***school councils and districts shall give*** priority[~~ shall be given~~] to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. ***The district may use*** up to one (1) day[~~ may be used~~] to provide ***district-wide training and*** training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development ***shall***[~~may~~] be used to support professional development initiatives that are consistent with local ***school improvement and professional development*** plans ***and teachers' individual growth plans. The funds may be used***[~~,~~] throughout the year for all staff, including classified and certified staff and parents on school councils or committees. ***A portion of the funds allocated to each school council under Section 15 of this Act shall be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.***

(6) The Department of Education shall ***establish an electronic consumer bulletin board that posts information regarding***[~~contract with an outside agency to complete an analysis of the current status of the statewide~~] professional development ***providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or*** program.[~~ The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations regarding:~~

~~(a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and~~

~~(b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.~~

~~A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports on the status of the statewide professional development program.~~]

(7) [~~During the 1998-1999 and 1999-2000 school years, ~~]The Department of Education shall ***provide training***[~~conduct an intensive statewide professional development program~~] to address the characteristics and instructional needs of exceptional students and students at risk of school failure. The professional development shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with exceptional students and students at risk of school failure. The professional development for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Improve the academic achievement of exceptional students and students at risk of school failure;

(b) Significantly reduce the dropout rate of all students; and

(c) Prepare all students for a successful transition to adult life.

(8) By July 1, 2001, the department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

Section 12. KRS 156.101 is amended to read as follows:

(1) The purpose of this section is to encourage and require the maintenance and development of effective instructional leadership in the public schools of the Commonwealth and to recognize that principals with the assistance of assistant principals, supervisors of instruction, guidance counselors, and directors of special education have the primary responsibility for instructional leadership in the schools to which they are assigned.

(2) For the purpose of this section, "instructional leader" shall be defined as an employee of the public schools of the Commonwealth ***employed***[~~holding a valid certificate~~] as a principal, assistant principal, supervisor of instruction, guidance counselor,[~~ or~~] director of special education***, or other administrative positions deemed by the Education Professional Standards Board to require an administrative certificate***.

(3) In order to carry out the purpose of this section, the Kentucky Board of Education shall establish a statewide program to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth.

(4) The instructional leader improvement program shall contain the following provisions:

(a) Each instructional leader employed by the public schools of the Commonwealth shall participate in a continuing intensive training program designed especially for instructional leaders;

(b) Every two (2) years each instructional leader shall complete an intensive training program approved by the Kentucky Board of Education to include no ***fewer***[~~less~~] than forty-two (42) participant hours of instruction;

(c) The Kentucky Board of Education shall prescribe specific criteria for the training program***. The Kentucky Department of Education***[~~and~~] may contract for ***specific***[~~the~~] training with qualified agencies or institutions ***or***

approve programs offered by training providers, including local district training programs, except that the department shall insure the requirements of paragraphs (d) and (e) of this subsection are met;~~[and]~~

(d) Completion of the required ***forty-two (42)*** participant hours shall be reported to the ***department***~~[State Department of Education]~~ and to the ***Education Professional Standards Board by the*** local school district. If an instructional leader fails to complete the required hours of training, ***the instructional leader***~~[he]~~ shall be placed on probation for one (1) year and, if the training is not completed during the probationary period, ***the instructional leader's***~~[his]~~ certificate shall be revoked ***by the Education Professional Standards Board***.

(5) ***The Kentucky Department of Education shall ensure that training options in human resource management and conflict resolution techniques are available to education leaders throughout the state.***~~[As a means of improving the educational productivity of Kentucky's public schools, of providing a method by which the citizens of the Commonwealth can be assured of measures of accountability of the performance of certified school employees, and of providing encouragement and incentives for certified school employees to improve their performance, the Kentucky Board of Education shall establish a statewide program for improving the performance of all certified school personnel, including instructional leaders.~~

~~(6) The certified employee evaluation programs shall contain the following provisions:~~

~~(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the Kentucky Board of Education;~~

~~(b) The local school district shall review the evaluation plan to insure compliance with this section. Upon adoption, revisions to the evaluation plan shall be submitted for approval by the Kentucky Board of Education; and~~

~~(c) The Kentucky Board of Education shall notify local school districts of their responsibilities under this subsection, develop written guidelines for local school districts to follow in developing and implementing an evaluation system and shall require the following:~~

~~1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;~~

~~2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator;~~

~~3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;~~

~~4. Evaluation shall include a conference between the evaluator and the person evaluated;~~

~~5. Evaluators shall be trained, tested, and certified in accordance with regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;~~

~~6. The evaluation system shall include a plan whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator; and~~

~~7. The training requirement for evaluators contained in subsection (6)(c)5. of this section shall not apply to district board of education members.~~

~~(7) A local district may request from the Kentucky Board of Education a waiver from the guidelines and administrative regulations promulgated by the state board as required in subsection (6) of this section in order to implement an alternative certified evaluation plan for employees on continuing contracts. The board shall grant a waiver if the alternative plan provides for a three (3) phase certified employee evaluation plan that includes:~~

~~(a) Phase One (1): Evaluation for Professional Growth.~~

~~1. Evaluation is based on a wide array of relevant sources and directed toward general and specific recommendations for improvement; and~~

~~2. Evaluation does not include documentation that might adversely affect employment status.~~

~~(b) Phase Two (2): Transition.~~

~~1. Evaluation is for the purpose of intensive scrutiny of job performance;~~

~~2. Evaluation includes documentation that may lead to adverse employment decisions;~~

~~3. Assistance and support for improvement shall be provided by the school district; and~~

~~4. Placement of an individual in the transition phase is not subject to appeal, but the employee must be notified of the decision in writing.~~

~~(c) Phase Three (3): Evaluation for Deficiency.~~

~~1. Notwithstanding KRS 161.760, written notice of potential termination, reduction of direct classroom responsibility, or other adverse actions and conditions for job retention are given the employee;~~

~~2. A clear time frame for proposed actions is provided the employee; and~~

~~3. The summative evaluation is subject to appeal.~~

~~An alternative plan for the evaluation of certified personnel shall be proposed to the state board if the local district evaluation committee is in support of the plan. Training necessary to implement the alternative plan shall be provided to the principals, supervisory personnel, and the employees to be evaluated. The local district shall provide support to implement the plan. The Kentucky Department of Education shall provide technical assistance to districts wishing to develop alternative evaluation plans.~~

~~(8) The State Department of Education shall visit school districts within the Commonwealth as needed to review and insure implementation of the evaluation system by the local school district. The department shall establish an appeals procedure for certified school employees who feel that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personal evaluations.~~

~~(9) The State Department of Education shall select and train evaluators from outside each local school district to conduct evaluations as needed of a sample of certified school employees within each district in order to validate the effectiveness and accuracy of the local school districts' evaluators.~~

~~(10) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall be exempt from the requirements of this section except for subsection (11) of this section provided they meet the standards established by the Kentucky Board of Education for local school district evaluation systems.~~

~~(11) The local board of education shall establish an evaluation appeals panel for certified personnel which shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation. In districts that have adopted an alternative evaluation plan under subsection (7) of this section, the appeal shall only apply to the summative evaluation of Phase Three (3).~~]

(6)[~~(12)~~] This section shall be known as the "Effective Instructional Leadership Act."

Section 13. KRS 157.390 is amended to read as follows:

(1) ***For purposes of the state teacher salary schedule, teachers shall be placed on the schedule based on certification***[~~(a) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in rank as follows:~~

~~Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.~~

~~Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.~~

~~Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.~~

~~Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.~~

~~Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.~~

~~(b) In determining ranks, the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The chief state school officer, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.~~

~~(c) Nothing in this subsection shall allow the Kentucky Board of Education by regulation to reclassify downward any teachers currently in Ranks I or II.~~

~~(2) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in each~~] rank ***as established by the Education Professional Standards Board under Section 8 of this Act and*** by their years of experience[~~ for purposes of the state teacher salary schedule~~] as follows:

1. Zero (0) to three (3) years;
2. Four (4) to nine (9) years;
3. Ten (10) to fourteen (14) years;

4. Fifteen (15) to nineteen (19) years; and

5. Twenty (20) or more years.

(2)~~[(3) (a)]~~ The rank and experience of the teacher shall be determined on September 15 ***of each year***.

~~[(b) The amount to be included in each school year in the base funding level of a district for teachers' salaries shall be based on the categories of experience in subsection (2) of this section.]~~

(3)~~[(4)]~~The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.

(4)~~[(5)]~~The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.

(5)~~[(6)]~~The total amount of money distributable to each district from the public school fund shall ***include the base funding per pupil in average daily attendance, an amount for at-risk students, an amount for the types and numbers of students with disabilities, an amount for students served in home and hospital settings, and***~~[be the sum of]~~ the allotments in subsections (3)~~[,]~~ ***and*** (4)~~[, and (5)]~~ of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6).

(6)~~[(7)]~~***Effective July 1, 2001, local school districts may provide additional salary compensation above the base single salary schedule for teachers who are recruited to serve in critical shortage areas including geographic, subject matter, or diversity; teachers who agree to transfer from a high-performing school to a low-performing school; and persons who serve as classroom teaching partners or mentors in a state-approved program.*** The Kentucky Board of Education shall ***promulgate administrative regulations to define high and low-performing schools, acceptable transfers within districts for shortage areas, and the conditions under which the additional salary compensation may be provided. The administrative regulations shall include the maximum compensation that may be granted to an individual; the approval process; the time limitations; and reporting requirements. A teacher shall not be approved for additional compensation for teaching a specific subject matter area unless the teacher is employed in a shortage area identified by the commissioner of education. The commissioner shall annually identify shortage areas. The commissioner may use any reliable information, including, but not limited to, data provided by the Education Professional Standards Board and local education agencies to identify the critical shortage areas. The Education Professional Standards Board shall approve mentor programs related to an expanded internship, nontraditional, or alternative certification program. The Kentucky Board of Education shall approve mentor programs that relate to a locally developed mentor or teaching partner program***~~[create a Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include education, rank, years of teaching service, related duties, specialized training, nonteaching experience, length of work year, performance, and any other professionally-recognized factors which the board considers relevant. The plan shall be developed during the 1992-94 biennium. Development work shall be conducted by Department of Education staff with support from recognized compensation experts, and staff from the Legislative Research Commission, the Office of Education Accountability, and the Governor's Office of Policy and Management. Upon approval by the Kentucky Board of Education, the new plan and its fiscal impact shall be submitted to the General Assembly]~~.

(7) During the 2000-2002, biennium, the Kentucky Board of Education may approve up to five (5) local school districts to conduct pilot comprehensive professional compensation plans. The pilot plans shall recognize a teacher's professional competency, skills, and knowledge; contributions to improve schools and student achievement and learning; and professional involvement in local, state, and national professional organizations related to his or her academic discipline.

Section 14. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the ***commissioner of education***~~[chief state school officer]~~, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of ***Section 11 of this Act***~~[KRS 156.095]~~. ***At the discretion of the superintendent, one (1) day of***

professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the ***commissioner of education***~~[chief state school officer]~~.

(4) The Kentucky Board of Education, upon recommendation of the ***commissioner of education***~~[chief state school officer]~~, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the ***commissioner of education***~~[chief state school officer]~~ may designate alternate dates. The ***commissioner of education***~~[chief state school officer]~~ shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

Section 15. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. ***A teacher elected to a school council shall not be involuntarily transferred during his or her term of office.*** The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. ***When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training.*** Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all

members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so.~~[By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice.]~~ All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, ***no later than thirty (30) days after the beginning of the service year for which they are elected to serve.***~~[and]~~ School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making ***no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve***. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the ***commissioner of education***~~[chief state school officer]~~ and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the ***commissioner of education***~~[chief state school officer]~~, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development ***in compliance with requirements specified in Section 11.***~~[with the district's coordinator and other]~~ School councils ***of***~~[,]~~ small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 16. KRS 161.028 is amended to read as follows:

(1) The Education Professional Standards Board has the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel. ***Program standards shall reflect national standards and shall address, at a minimum, the following:***

1. The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;

2. Research-based classroom practices, including effective classroom management techniques;

3. Emphasis on subject matter competency of teacher education students;

4. Methodologies to meet diverse educational needs of all students;

5. The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;

6. The amount of college-wide or university-wide involvement and support during the preparation as well as the induction of new teachers;

7. The diversity of faculty;

8. The effectiveness of partnerships with local school districts; and

9. The performance of graduates on various measures as determined by the board.

(c) ***Conduct an annual review of diversity in teacher preparation programs, require a plan of action to increase diversity, and take corrective actions as deemed appropriate for chronic noncompliance to the plan;***

(d) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;

(e) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;

(f)[~~(c)~~] Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;

(g)[~~(d)~~]Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(h)[~~(e)~~]Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(i)[~~(f)~~] ***Determine the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system;***

(j) [~~Maintain data and~~]Submit reports to the Governor and the Legislative Research Commission ***and inform the public on the status of teaching in Kentucky***[~~concerning employment trends, including the number of minority certified employees, and the quality of professional preparation programs~~];

(k)[~~(g)~~]***Devise a credentialing***[~~Reduce and streamline the credential~~] system ***that provides alternative routes to gaining certification and***[~~to allow~~] greater flexibility in staffing local schools while maintaining standards for teacher competence;

(l)[~~(h)~~] Develop a professional code of ethics;

(m)[~~(i)~~] ***Recruit,*** select***, employ,*** and evaluate the executive ***director***[~~secretary~~] to the board; ***approve employment policies, a compensation plan, and procedures for the employment of policy level staff and their assistants;***

(n)[~~(j)~~] Approve the biennial budget request[~~ and advise the commissioner of education on budgetary matters~~];

(o)[~~(k)~~]Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates;[~~ and~~]

(p)[~~(l)~~] Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver***;***

(q) Solicit the development of one (1) or more innovative, nontraditional teacher preparation programs through

public or private colleges or universities, private contractors, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program; and

(r) Issue orders as necessary in any administrative action before the board.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(c) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(d) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(e) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(f) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

The House Committee Amendment No. 1 Title to **SB 77** is as follows:

By amending the title to read as follows " AN ACT relating to the professional preparation of school personnel.".

Calendar

SB 42, SB 317, SCR 88, SB 69, SB 78, SB 313, SB 398, SJR 73, SJR 104, SJR 110, SB 218, SB 224, SB 256, SB 260, SB 261, SB 263, SB 309, SB 316, SCR 4, SB 15, SB 155, SB 409, HCR 154, and **SB 335** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Treesh moved that the rules be suspended to withdraw House Floor Amendment No. 5 and House Floor Amendment No. 6 to **SB 279;** House Floor Amendment 1, House Floor Amendment No. 2, and House Floor Amendment No. 3, to **SB 294;** and House Floor Amendment No. 1 and House Floor Amendment No. 2 to **SB 324**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office and a Committee on Tourism meeting in the Chamber. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 195, HCR 154, SB 15, SB 78, SB 218, SJR 73, SCR 88, SJR 104, SJR 110,** and **SB 247** have been posted for passage in the Orders of the Day for March 24, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **SB 267, SB 165, SB 155**

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 10, HB 40, HB 69, HB 76, HB 78, HB 96, HB 120, HB 127, HB 143, HB 165, HB 204, HB 243, HB 249, HB 290, HB 300, HB 314, HB 317, HB 348, HB 356, HB 358, HB 427, HB 449, HB 471, HB 472, HB 501, HB 595, HB 647,** and **HJR 61** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:50 p.m.)

Representative Stumbo moved that the rules be suspended to let the Journal of March 22, 2000, reflect that **SB 290** was recommitted to Natural Resources and Environment subsequent to its first reading. Agreed.

Representative Fischer moved that the rules be suspended to withdraw House Floor Amendment No. 2 and House Floor Amendment No. 3 to **SB 52**. Agreed.

Representative J. Turner moved that the rules be suspended to withdraw House Floor Amendment No. 1 to **SB 254**. Agreed.

Orders of the Day

HB 616, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 616** is as follows:

On page 2, on line 12, after "***shall***" by inserting "***, where it finds that the requirements of this subsection have been met,***"; and

on page 2, line 24, after "***shall***" by inserting "***, where it finds that the requirements of this subsection have been met,***"; and

on page 4, line 3, after "(1)" by inserting the following: "***The operator shall provide a list to the department of all persons reasonably known to own an oil or gas interest in any tract, or portion thereof, proposed to be pooled in an application to the department for a pooling order. A pooling order shall be made only after the department provides notice to all persons reasonably known to own an oil or gas interest in any tract, or a portion thereof, proposed to be pooled after a hearing has been held. In the event of the filing of an application for a pooling order under KRS 353.630(2) where unknown owners or nonlocatable owners exist, the operator shall cause to be published, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:***

(a) State that an application for a pooling order is being filed with the Division of Oil and Gas in the department;

(b) Describe any tract, or portion thereof, proposed to be pooled;

(c) In the case of an unknown owner, identify the name of the last known owner;

(d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

(e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the Director of the Division of Oil and Gas in the department within twenty (20) days of the date of publication"; and

on page 4, line 4, by deleting "***, or portion thereof,***"; and

on page 4, line 3, by placing an opening bracket before "A" and

on page 4, line 5, by placing a closing bracket after "hearing"; and

by striking through all the language between the brackets.

Representative Collins moved that the House concur in Senate Committee Amendment No. 1 to **HB 616**. Agreed.

Representative Collins moved that **HB 616**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 23, 1998 roll call on **HB 616** - Appendix.)

HB 616, as amended by the Senate, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 616**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 69 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **SJR 69** be adopted.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 23, 2000 roll call on **SJR 69** - Appendix.)

SJR 69 was adopted.

Representative Napier moved that the vote by which **SJR 69** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 287, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of House Floor Amendment No. 1 to **SB 287**. Agreed.

Representative Stumbo moved the adoption of House Floor Amendment No. 2 to **SB 287**. Agreed.

Representative Siler moved that **SB 287**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 23, 2000 roll call on **SB 287** - Appendix.)

SB 287, as amended, was passed and the title agreed to.

Representative Siler moved that the vote by which **SB 287**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 294, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ausmus moved that **SB 294** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 23 , 2000 roll call on **SB 294** - Appendix.)

SB 294 was passed and the title agreed to.

Representative Ausmus moved that the vote by which **SB 294** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 245, with House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of House Committee Amendment No. 1 to **SB 245**. Agreed.

Representative Cave moved that **SB 245**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 23, 2000 roll call on **SB 245** - Appendix.)

SB 245, as amended, was passed and the title agreed to.

Representative Cave moved that the vote by which **SB 245**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 257 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 257** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 23 , 2000 roll call on **SB 257** - Appendix.)

SB 257 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 257** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 217, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the rules be suspended to consider House Floor Amendment No. 1 to **SB 217**. Agreed.

Representative A. Arnold moved the adoption of House Floor Amendment No. 1 to **SB 217**. Agreed.

Representative Hoover moved that **SB 217**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 6**. (See March 23, 2000 roll call on **SB 217** - Appendix.)

SB 217, as amended, was passed and the title agreed to.

Representative Hoover moved that the vote by which **SB 217**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 341, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 341** be passed.

Representative Crall moved the adoption of House Floor Amendment No. 1 to **SB 341**.

Representative Crall moved to withdraw the motion to adopt House Floor Amendment No. 1 to **SB 341**. Agreed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 23 , 2000 roll call on **SB 341** - Appendix.)

SB 341 was passed and the title agreed to.

Representative Bruce moved that the vote by which **SB 341** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 192 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **SB 192** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 23 , 2000 roll call on **SB 192** - Appendix.)

SB 192 was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 192** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 68 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **SB 68** be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 23 , 2000 roll call on **SB 68** - Appendix.)

SB 68 was passed and the title agreed to.

Representative Ford moved that the vote by which **SB 68** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 206 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **SB 206** be passed.

On the roll call the vote was: **Yeas 99**, **Nays 0**. (See March 23 , 2000 roll call on **SB 206** - Appendix.)

SB 206 was passed and the title agreed to.

Representative Lee moved that the vote by which **SB 206** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 114 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **SB 114** be passed.

On the roll call the vote was: **Yeas 96**, **Nays 1**. (See March 23 , 2000 roll call on **SB 114** - Appendix.)

SB 114 was passed and the title agreed to.

Representative Thomas moved that the vote by which **SB 114** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 113, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved the adoption of House Floor Amendment No. 3 to **SB 113**. Agreed.

Representative Nunn moved the adoption of House Floor Amendment No. 1 to **SB 113**. Agreed.

Representative Johns moved that **SB 113**, as amended, be passed.

On the roll call the vote was: **Yeas 91**, **Nays 3**. (See March 23, 2000 roll call on **SB 113** - Appendix.)

SB 113, as amended, was passed.

Representative Johns moved the adoption of House Floor Amendment No. 2 Title to **SB 113**. Agreed; and the title was agreed to.

Representative Johns moved that the vote by which **SB 113**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 169 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **SB 169** be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 23 , 2000 roll call on **SB 169** - Appendix.)

SB 169 was passed and the title agreed to.

Representative Damron moved that the vote by which **SB 169** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **HB 5, HB 15, HB 52, HB 86, HB 254, HB 282, HB 347, HB 398, HB 452, HB 623, HB 631, HB 722, HB 749, HB 805, HB 957, HCR 36, HJR 101,** and **HCR 108**. (Time: 2:10 p.m.)

Message in regard to **HB 8**: The Senate has passed **HB 8** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 118**: The Senate has passed **HB 118** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 136**: The Senate has passed **HB 136** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 161**: The Senate has passed **HB 161** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 176**: The Senate has passed **HB 176** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 244**: The Senate has passed **HB 244** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 310**: The Senate has passed **HB 310** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 405**: The Senate has passed **HB 405** by way of Senate Committee Substitute and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 462**: The Senate has passed **HB 462** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 619**: The Senate has passed **HB 619** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Orders of the Day (Continued)

SB 52, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Childers moved that **SB 52** be passed.

Representative Vincent moved the adoption of House Floor Amendment No. 1 to **SB 52**. Agreed.

Representative Childers moved that **SB 52**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 23, 2000 roll call on **SB 52** - Appendix.)

SB 52, as amended, was passed and the title agreed to.

Representative Childers moved that the vote by which **SB 52**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 280, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the House Committee Substitute to **SB 280**. Agreed.

Representative L. Clark moved that **SB 280**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 23, 2000 roll call on **SB 280** - Appendix.)

SB 280, by way of House Committee Substitute, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **SB 280**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 151 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HR 151** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 23, 2000 roll call on **HR 151** - Appendix.)

HR 151 was adopted.

Representative Bruce moved that the vote by which **HR 151** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 10, HB 40, HB 69, HB 76, HB 78, HB 96, HB 120, HB 127, HB 143, HB 165, HB 204, HB 243, HB 249, HB 290, HB 300, HB 314, HB 317, HB 348, HB 356, HB 358, HB 427, HB 449, HB 471, HB 472, HB 501, HB 595, HB 647, and **HJR 61** delivered to the Senate and signed by the President. Delivered to the Governor on March 23, 2000, at 3:46 p.m.

Orders of the Day (Continued)

SB 330 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 72, SB 73, SB 186, SB 232, SB 300, SB 331,** and **SB 351** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:59 p.m.)

Orders of the Day (Continued)

Representative Stumbo moved that **SB 330** be placed in the Orders of the Day and retain it's position. Agreed.

SB 339 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 339** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 23 , 2000 roll call on **SB 339** - Appendix.)

SB 339 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 339** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 98, with House Committee Substitute and House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the House Committee Substitute to **SB 98**. Agreed.

Representative Marzian moved that **SB 98**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 23, 2000 roll call on **SB 98** - Appendix.)

SB 98, by way of House Committee Substitute, was passed.

Representative Marzian moved the adoption of House Committee Amendment No. 1 Title to **SB 98**. Agreed; and the title was agreed to.

Representative Marzian moved that the vote by which **SB 98**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **HB 322**. (Time: 4:05 p.m.)

Orders of the Day (Continued)

HR 106 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HR 106** be adopted.

On the roll call the vote was: **Yeas 87, Nays 6**. (See March 23, 2000 roll call on **HR 106** - Appendix.)

HR 106 was adopted.

Representative Barrows moved that the vote by which **HR 106** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 86 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 86** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 23 , 2000 roll call on **SB 86** - Appendix.)

SB 86 was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 86** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 330 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **SB 330** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 23 , 2000 roll call on **SB 330** - Appendix.)

SB 330 was passed and the title agreed to.

Representative Stacy moved that the vote by which **SB 330** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 152, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved the adoption of House Floor Amendment No. 2 to **SB 152**. Agreed.

Representative D. Butler moved the adoption of House Floor Amendment No. 3 to **SB 152**. Agreed.

Representative D. Butler moved that **SB 152**, as amended, be passed.

On the roll call the vote was: **Yeas 71, Nays 19**. (See March 23, 2000 roll call on **SB 152** - Appendix.)

SB 152, as amended, was passed.

Representative D. Butler moved the adoption of House Floor Amendment No. 1 Title to **SB 152**. Agreed; and the title was agreed to.

Representative D. Butler moved that the vote by which **SB 152**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 101 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved that **SB 101** be passed.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See March 23 , 2000 roll call on **SB 101** - Appendix.)

SB 101 was passed and the title agreed to.

Representative Hoover moved that the vote by which **SB 101** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 87, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **SB 87** be passed.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See March 23 , 2000 roll call on **SB 87** - Appendix.)

SB 87 was passed and the title agreed to.

Representative Rasche moved that the vote by which **SB 87** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 275 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 275** be placed in the Orders of the Day and retain it's position. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement be waived on **SB 332, SB 350, SB 408, HR 166, HR 169**, and **HR 170**. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., March 24, 2000. Agreed.

Representative Stumbo moved that the rules be suspended to allow Judiciary to meet in Room 316 prior to adjournment. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 178, by Representative Hoover: A RESOLUTION honoring Daniel Latham, Basketball Player of the Year, 4th Region.

Report of Committees (Continued)

The Committee on Tourism, Development, and Energy reported **SJR 107** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 107, A JOINT RESOLUTION reauthorizing the Electricity Restructuring Task Force.

WHEREAS, the 1998 General Assembly assembled the Electricity Restructuring Task Force for the purpose of thoroughly studying the many aspects of electricity restructuring; and

WHEREAS, the 1998 task force acquired a significant base of knowledge on electricity restructuring which should not be lost to the state; and

WHEREAS, a finding of the 1998 task force stated that Kentucky is uniquely positioned because of low rates for electricity to monitor the progress of restructuring in other states and to develop options to best protect the interests of Kentuckians; and

WHEREAS, the issue of electricity restructuring is complex and deserving of continuing, thoughtful study;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Electricity Restructuring Task Force is reauthorized for the purpose of monitoring developments related to electricity restructuring, maintaining its knowledge of the issue, studying within the context of electricity restructuring low income energy assistance, and making recommendations it deems appropriate for consideration by the 2002 General Assembly and the Governor. The task force shall meet at least quarterly but may meet more frequently at the discretion of the chairpersons. The first meeting shall be held no later than October 1, 2000. The task force shall report to the Legislative Research Commission and the Governor no later than November 15, 2001.

Section 2. (1) The task force shall be comprised of the following members:

(a) Ten members from the executive branch, to be appointed by the Governor, with one member being the Attorney General or his designee; and

(b) Ten members from the General Assembly, of which three members shall be appointed by the President of the Senate, three members shall be appointed by the Speaker of the House, two members shall be appointed by the Senate Minority Floor Leader, and two members shall be appointed by the House Minority Floor Leader. All legislative branch appointments shall be approved by the Legislative Research Commission.

(2) The task force shall have three co-chairs, one appointed by the Governor, one appointed by the President of the Senate, and one appointed by the Speaker of the House. All appointments shall be made before July 31, 2000. All legislative appointments shall be approved by the Legislative Research Commission.

Section 3. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

Section 4. The task force may employ consultants with the approval of the Legislative Research Commission, request and hear testimony, or take any necessary steps to maintain its knowledge of and to monitor developments related to the issue. The task force shall be staffed by the Legislative Research Commission with assistance from the Public Service Commission.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Motions, Petitions, and Communications (Continued)

Representative Hoover moved the adoption of the following **Legislative Citation No. 140**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Barbara Burdette and respectfully joins with Representative Jeffrey Hoover in expressing its deepest sympathy to her loving husband William J. "Billy" Burdette; her devoted mother, Hattie Reese; her cherished son, John R. Burdette; and all who share in the great loss on the passing of this fine and esteemed citizen, the daughter of the late Russell Reese. An extraordinary member of her community, she was a music teacher and educator for thirty years; an astute businesswoman; and was active in community and civic affairs, serving as an fundraiser for and as a board member of Kentucky Educational Television, as president of the Russell County Historical Society and was a devoted member of the First Baptist Church, Jamestown. Honored and remembered on this day as an outstanding citizen of this Commonwealth, Barbara Burdette will be deeply missed by all those whose lives were touched by her remarkable and generous presence. Done in Frankfort, this twenty-third day of March, in the year two thousand.

Legislative Citation No. 140 was adopted without objection.

Representative Hoover moved that LRC staff comply with House Rules.

The Speaker ruled that the motion was out of order.

Representative Nesler moved the adoption of the following **HR 172**:

HR 172, A RESOLUTION recognizing Kentucky's Drive Smart Program.

WHEREAS, the Kentucky Transportation Cabinet's Drive Smart program is a comprehensive, fully integrated, and proactive approach to reducing fatalities and injuries on the Commonwealth's highways; and

WHEREAS, the Drive Smart program is a joint effort relying on the experience and expertise of the "four E's" -- engineering, enforcement, education, and emergency response; and

WHEREAS, the backbone of the Drive Smart initiative is the Community/Corridor Safety Improvement Program that looks at corridors with above average accident rates and works to identify the causes, from roadway deficiencies, speeding, and low seat belt use to alcohol involvement, and to determine conceptually what types of activities are needed to reduce fatalities and injuries; and

WHEREAS, the Drive Smart program operates statewide in all twelve highway districts and is tailored to address problems specific to each district; and

WHEREAS, corridor meetings are held in each highway district with the persons that represent agencies along the corridor, the purpose of which is to bring the various agencies together to develop a coordinated approach to determine what resources are required to address problems within the district, and what resources are available to implement the Drive Smart program; and

WHEREAS, the Drive Smart program conducts awareness programs on a variety of issues pertaining to transportation safety for all ages including topics such as seat belt usage, impaired driving, highway construction work zone safety, inattentive drivers, highway road rage, defensive driving techniques, safe trucking operations, and pedestrian safety;.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, hereby recognize and honor the Kentucky Transportation Cabinet's Drive Smart program for its innovative approach to highway safety for the motoring public in the Commonwealth.

Section 2. The Drive Smart program is lauded for its progressive stance in dealing with the many difficult and varied factors that must be addressed to reduce highway fatalities and injuries across the Commonwealth.

Section 3. The Drive Smart program is a model that other state agencies should follow when developing a state initiative.

Section 4. The Clerk of the House is to transmit a copy of this Resolution to James Codell, Secretary of the Kentucky Transportation Cabinet, Ed Logsdon, Commissioner of the Department of Vehicle Regulation, Kentucky Transportation Cabinet, and Mrs. Judy Patton.

There being no objection **HR 172** was adopted.

Representative C. Belcher moved the adoption of the following **HR 160**:

HR 160, A RESOLUTION declaring the month of May 2000, as Motorcycle Awareness Month.

WHEREAS, the safe operation of a motorcycle requires the use of special skills developed through a combination of training and experience, the use of good judgment, and a thorough knowledge of traffic laws and licensing requirements; and

WHEREAS, Kentucky has 120,000 individuals who have valid operator and chauffeur licenses with a motorcycle endorsement; and

WHEREAS, it is especially important that the citizens of our state be aware of motorcycles on the streets and highways and recognize the importance of motorcycle safety; and

WHEREAS, all motorcycle organizations, clubs, dealerships, groups, and highway officials in our state should join with the Kentucky Motorcycle Safety Program and the Kentucky Motorcycle Association in actively promoting safe operations, increased rider training, improved licensing efforts, and motorist awareness; and

WHEREAS, during the month of May 2000, all highway users should unite in the safe sharing of roadways throughout the Commonwealth of Kentucky; and

WHEREAS, this special Motorcycle Awareness Campaign also encourages other motor vehicle operators to be cautious and observe these motorcycles, especially during the seasonal return of motorcycles to the Commonwealth's streets and highways;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby declare the month of May 2000, as Motorcycle Awareness Month, and we do hereby urge all citizens to develop a caring attitude toward sharing the road.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Carolyn Belcher for distribution to the proper authorities.

There being no objection **HR 160** was adopted.

Representative P. Clark moved the adoption of the following **Legislative Citation No. 131**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors WHAS-TV for the many and generous contributions it has made during fifty years of television broadcasting in this Commonwealth and the surrounding region. Beginning its broadcast in 1950 with the airing of a local newscast and several live television programs such as "T-Bar-V Ranch," "Hayloft Hoe-Down," and "Moral Side of the News," which still airs today, making it one of the longest running shows in television history, this highly-regarded station has continued to cover vital community interest issues including topics surrounding mental illness, women's health and children's services as well as documentaries on strip mining, public school integration and the Prestonsburg school bus crash. While this station remains highly-regarded for the entertaining and informative programs it airs, it is further held in highest esteem and offered immense gratitude for the initiation and continual sponsorship of the Crusade for Children, an extraordinary fundraising effort begun in 1954 which has ultimately collected over $77 million for Kentucky and Southern Indiana agencies the help children with handicaps. This humanitarian endeavor is celebrated as it marks its 47th year of offering much needed support to special needs children. Inasmuch as this most esteemed television station has consistently provided inestimable service to its audiences and to the children and citizens of Kentucky and Indiana, the members of this prestigious body are delighted to join with Representative Perry Clark in commending WHAS-TV for the vital contributions it has made in these most worthwhile endeavors and in expressing the hope for its continued good fortune. Done in Frankfort, this twenty-first day of March, in the year two thousand.

Legislative Citation No. 131 was adopted without objection.

Roll call to show co-sponsors. (See March 23, 2000 roll call to show co-sponsors-Appendix.)

Representative Vincent moved that **SB 3** be taken from the Clerk's Desk and placed in the Orders of the Day. Agreed.

Representative C. Belcher moved that the rules be suspended to act upon a Resolution. Agreed.

Representative C. Belcher moved the adoption of the following **HR 176**:

HR 176, A RESOLUTION proclaiming January 20-21, 2001, as World Religion Weekend in the Commonwealth of Kentucky.

WHEREAS, the third Sunday in January is World Religion Day, inaugurated forty years ago, and now regularly observed in over eighty countries; and

WHEREAS, there can be no peace in the world until there is equality, justice, and security everywhere for human beings; and

WHEREAS, technological advances have brought about an interdependence that has made us all inhabitants of a global village, making human unity and true equality one of our most important goals; and

WHEREAS, there is an urgent need to work to remove the causes of war in the minds and hearts of mankind;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby proclaim January 20-21, 2001, as World Religion Weekend, and we urge the Commonwealth's citizens to participate in the observance of World Religion Weekend.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Carolyn Belcher for presentation to the proper authorities.

There being no objection **HR 176** was adopted.

Representative Tapp moved the adoption of the following **Legislative Citation No. 139**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Fred Bains Purnell and to join with Representative Gary Tapp in expressing profound sympathy to all who share in the loss on the passing of this remarkable gentleman, the loving son of Clara Purnell and the late Fred Purnell, Sr.; the devoted husband of Jean Turner Purnell; the beloved father of three children, Jennifer Hawkins, Susan Massey and Michael Purnell; the cherished brother of Betty Moffett, Robert Purnell and Allen Purnell; and the proud grandfather of thirteen grandchildren. A native of Nashville, Tennessee, a Navy veteran of the Korean War and a deacon at Simpsonville Baptist Church, Fred Purnell moved to Kentucky and joined his brothers as a co-owner of F.B. Purnell Sausage Company after the death of his father. Known as a generous and kind-hearted man who deeply enjoyed life, Fred Purnell was an asset to the human race. Devoted to his family and friends, his memory will live on as an inspiration to all whose lives were touched by his presence and will continue to serve as a beacon for others to follow. Done in Frankfort, this twenty-third day of March, in the year two thousand.

Legislative Citation No. 139 was adopted without objection.

Representative Cave moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cave moved that his vote be changed from "yea" to "nay" on **SB 198**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 68**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **SB 114**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **HB 390**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that he be recorded as voting "yea" on **SB 87**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that he be recorded as voting "yea" on **SJR 69**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Branham moved that his vote be changed from "yea" to "nay" on **SB 217**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Branham moved that he be recorded as voting "yea" on **HB 616**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Branham moved that his vote be changed from "nay" to "yea" on **SB 152**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Branham moved that he be recorded as voting "yea" on **SJR 69**. Agreed.

Representative Siler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Siler moved that his vote be changed from "yea" to "nay" on **SB 152**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **SB 21, SB 57, SB 116, SB 130, SB 167, SB 186, SB 198, SB 232, SB 300, SB 331, SB 351,** and **SCR 39**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 86**, by Representative Callahan:

On page 1, after line 24 but before line 25, by adding the following:

"Section 2. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17);

(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243***;***

(h) Amounts received for:

1. End user access charges;

2. Emergency 911 charges;

3. Duel party relay charges;

4. Interstate switched access revenue;

5. Interstate special access revenues;

6. State access revenue;

7. Interconnection charges paid by providers of mobile telephone service; or

8. Charges for unbundled network elements.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed."; and by renumbering subsequent section to conform.

Floor Amendment No. 1 to the House Committee Substitute to **SB 263**, by Representative Vincent:

On page 18, between lines 5 and 6, insert the following:

"Section 15. KRS 508.032 is amended to read as follows:

(1) ***If a person commits***[~~If an individual is found guilty or pleads guilty to~~] a third or subsequent offense of assault in the fourth degree ***under***[~~pursuant to~~] KRS 508.030 within five (5) years, and the relationship between the perpetrator and the victim in each of the offenses meets the definition of family member or member of an unmarried couple, as defined in KRS 403.720, ***then the person may be convicted of a Class D felony. If the Commonwealth desires to utilize the provisions of this section, the Commonwealth shall indict the defendant and the case shall be tried in the Circuit Court as a felony case. The jury, or judge if the trial is without a jury, may decline to assess a felony penalty in a case under this section and may convict the defendant of a misdemeanor***[~~the penalty shall be enhanced by one (1) degree above the penalty otherwise provided for the offense~~]. The victim in the second or subsequent offense is not required to be the same person who was assaulted in the prior offenses in order for the provisions of this section to apply.

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered by a court of competent jurisdiction."; and

On page 18, line 6, delete "15" and insert in lieu thereof "16".

Floor Amendment No. 1 to the House Committee Substitute to **SB 248**, by Representative Gray:

On page 2, after line 14, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 205.560, the Cabinet for Health Services shall make payments under the Medical Assistance Program for services that are within the lawful scope of practice of a chiropractor licensed under KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician."

Floor Amendment No. 2 Title to **SB 248**, by Representative Gray:

On page 1, by amending the title to read as follows: "AN ACT relating to benefits."

Floor Amendment No. 1 to **SB 245**, by Representative Gray:

On page 24, after line 5, by inserting the following:

"SECTION 23. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 205.560, the Cabinet for Health Services shall make payments under the Medical Assistance Program for services that are within the lawful scope of practice of a chiropractor licensed under KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician."

Floor Amendment No. 2 to **SB 263**, by Representative Webb:

On page 12, between lines 21 and 22, to insert the following:

"Section 12. KRS 510.040 is amended to read as follows:

(1) A person is guilty of rape in the first degree when:

(a) He engages in sexual intercourse with another person by forcible compulsion; or

(b) He engages in sexual intercourse with another person who is incapable of consent because he:

1. Is physically helpless; ~~[or]~~

2. ***Is mentally retarded or incapacitated; or***

3.~~[2.]~~ Is less than twelve (12) years old.

(2) Rape in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

Section 13. KRS 510.060 is amended to read as follows:

(1) A person is guilty of rape in the third degree when~~[:~~

~~(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated; or~~

~~(b)]~~ being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old.

(2) Rape in the third degree is a Class D felony.

Section 14. KRS 510.070 is amended to read as follows:

(1) A person is guilty of sodomy in the first degree when:

(a) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(b) He engages in deviate sexual intercourse with another person who is incapable of consent because he:

1. Is physically helpless; ~~[or]~~

2. ***Is mentally retarded or mentally incapacitated; or***

3.~~[2.]~~ Is less than twelve (12) years old.

(2) Sodomy in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

Section 15. KRS 510.090 is amended to read as follows:

(1) A person is guilty of sodomy in the third degree when~~[:~~

~~(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated; or~~

~~(b)~~] being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old.

(2) Sodomy in the third degree is a Class D felony.

Section 16. KRS 510.110 is amended to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion; or

(b) He subjects another person to sexual contact who is incapable of consent because he:

1. Is physically helpless; [~~or~~]

2. *Is mentally retarded or mentally incapacitated; or*

(3.)[~~2.~~] Is less than twelve (12) years old.

(2) Sexual abuse in the first degree is a Class D felony.

Section 17. KRS 510.120 is amended to read as follows:

(1) A person is guilty of sexual abuse in the second degree when[~~:~~

~~(a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded or mentally incapacitated; or~~

~~(b)~~] he subjects another person who is less than fourteen (14) years old to sexual contact.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

SECTION 18. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

The penalty provisions of KRS Chapter 506 to the contrary notwithstanding, any person who commits an offense under KRS Chapter 506 that results in the commission, attempted commission, solicited commission, or conspiracy to commit an offense under KRS Chapter 510 shall be subject to the penalty provided for the underlying offense provided in KRS Chapter 510 rather than the penalty specified in KRS Chapter 506."; and to renumber the remaining section accordingly.

Floor Amendment No. 2 to the House Committee Substitute to **SB 288**, by Representative Adkins:

On page 10, between lines 11 and 12, insert the following:

"*(14) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Personnel Cabinet, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.*

Floor Amendment No. 4 to **SB 163**, by Representative Upchurch:

On page 8, after line 24 by adding the following:

"Section 7. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;[~~ and~~]

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247;

(25) "Manufactured home" means a single-family residential dwelling as defined in KRS 227.550;

(26) "Qualified manufactured home" means a manufactured home that meets all the criteria in paragraphs (a) to (g) of this subsection. A qualified manufactured home:

(a) Is manufactured after January 1, 2000, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code;

(b) Is affixed to a permanent foundation, is connected to the appropriate facilities, and is installed in compliance with KRS 227.570;

(c) Has a width of at least twenty-two (22) feet at its smallest width measurement, or is two (2) stories in height, and is oriented on the lot or parcel so that its main entrance door faces the street;

(d) Has a minimum total living area of nine hundred (900) square feet;

(e) Has a minimum roof pitch of a four (4) foot rise to a twelve (12) foot run;

(f) Has conventional residential siding and a minimum of a six (6) inch eave overhang; and

(g) Is not located in a manufactured home park; and

(27) "Permanent foundation" means a permanent masonry, concrete, or locally approved footing or foundation, excluding temporary blocks, to which a manufactured home may be affixed.

SECTION 8. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section and Section 9 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulations or ordinances relating to a mobile home.

(2) Cities, counties, urban-county governments, and charter county governments shall not adopt or enforce zoning or other land use regulations or ordinances that exclude qualified manufactured homes from those cities, counties, urban-county governments, or charter county governments, or that differentiate qualified manufactured homes within those cities, counties, urban-county governments, or charter county governments that are sited on a permanent foundation, as defined in subsection (27) of Section 7 of this Act, from other residential housing solely because the qualified manufactured homes are either built in a factory or are not built on-site.

(3) Cities, counties, urban-county governments, and charter county governments may adopt regulations concerning the size, aesthetics, and architectural design of a qualified manufactured home so that the special character of neighborhoods, including historic preservation districts, may be maintained. Nothing in this section limits the ability of cities, counties, urban-county governments, or charter county governments to adopt zoning or land use regulations or ordinances that affect residential housing other than as prescribed in subsection (2) of this section or to require a final inspection of any manufactured home for the purpose of ensuring that no damage has occurred during transportation or assembly of the manufactured home that could compromise its structural integrity.

Section 9. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

(a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

(b) The size, width, height, bulk, location of structures, buildings and signs;

(c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

(d) Intensity of use and density of population floor area to ground area ratios, or other means;

(e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

(f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

(g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

(a) Setback lines may be required for the protection of existing and proposed streets and highways;

(b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

(c) ***Manufactured homes,*** mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced*; and*

(9) Nothing in this chapter shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that excludes qualified manufactured homes, as defined in Section 7 of this Act, from locating within the boundaries of the city, county, urban-county government or charter county government, or differentiates qualified manufactured homes, as defined in Section 7 of this Act, from other single-family residential dwellings contrary to the provisions contained in Sections 7, 8, and 9 of this Act.".

Floor Amendment No. 5 to **SB 163**, by Representative Upchurch:

On page 8, after line 24 by adding the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No executive branch agency shall disburse any funds under its authority to a city, county, urban-county government, or charter county government if the legislative body of the city, county, urban-county government, or charter county government enacts or enforces any ordinance that excludes manufactured homes, as defined in KRS 227.550, from locating within the boundaries of the city, county, urban-county government or charter county government, or differentiates manufactured homes, as defined in KRS 227.550, from other single-family residential dwellings.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 256**, by Representative Rasche:

On page 33, line 7 by deleting "*after consultation*" and "*and*";

On page 33, line 8 by removing the brackets and strikethroughs.

Floor Amendment No. 5 to the House Committee Substitute to **SB 170**, by Representative Damron:

On page 5, after line 2 by inserting the following:

"*(5) Any person listed in subsection (1)(a) of this section that has a charter, license, or certificate issued by the department shall not be required to file with the commissioner a claim of exemption. Any person listed in subsection (1)(b), (c), (d), or (e) of this section shall not be required to file with the commissioner a claim of exemption.*"; and

On page 6, after line 14 by adding:

"*(4) Any person who engages in the business regulated by this chapter without first securing a license or obtaining an*

exemption under subsection (3) of KRS 294.020 shall have no right to collect any principal, charges, or recompense whatsoever.".

Floor Amendment No. 3 to the House Committee Substitute to **SB 263**, by Representative Damron:

On page 18, between lines 5 and 6, insert the following:

"Section 15. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.540:

(1) "Cabinet" means the Justice Cabinet.

(2) ***(a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:***

1. Kidnapping, as set forth in KRS 509.040, except by a parent;

2. Unlawful confinement, as set forth in KRS 509.020, except by a parent;

3. Sex crime;

4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;

5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

6. Use of a minor in a sexual performance, as set forth in KRS 531.310;

7. Sexual abuse, as set forth in KRS 510.120 and 510.130;

8. Any attempt to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph; and

9. Solicitation to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense.

(3) "Law enforcement agency" means any lawfully-organized investigative agency, police unit, or police force of federal, state, county, city, metropolitan government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws.

(4) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or

2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under subsection (6) or (7) of Section 16 of this Act; or

(c) Any sexually violent predator.

(5)[~~(3)~~]"***Registrant***[~~Sex offender~~] information" means the name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, ***fingerprints, a photograph,*** aliases used, residence,[~~ vehicle registration data,~~] a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of ***registrants***[~~sex offenders~~].

(6)[~~(4)~~]"Sex crime" means***:***

(a) A felony offense defined in KRS Chapter 510, KRS 530.020, 530.064,[~~ or~~] 531.310***, or 531.320;***[~~,~~]

(b) A felony attempt to commit a ***felony offense specified in paragraph (a) of this subsection; or***

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection[~~sex crime, or similar offenses in another jurisdiction~~].

(7) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme.

Section 16. KRS 17.510 is amended to read as follows:

(1) The cabinet shall develop and implement a[~~ sex offender~~] registration system ***for registrants*** which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) ***A registrant shall, on or before the date of***[~~Any person eighteen (18) years of age or older at the time of the offense or any youthful offender who has committed or attempted to commit a sex crime shall, within ten (10) days after~~] his ***or her***

release by the court, the parole board,[~~ or~~] the cabinet, ***or any detention facility,*** register with the appropriate local probation and parole office in the county in which he ***or she intends to reside***[~~resides~~]. ***The person in charge of the release shall facilitate the registration process.***

(3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register[~~ under this section~~] by the court at the time of sentencing and by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register[~~ under this section~~] has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky ***40601***.

(4) The court or the official shall order the person to***:***

(a) Register with the appropriate local probation and parole office***; and***

(b) Report to a local detention facility within forty-eight (48) hours. The facility shall obtain the person's fingerprints under KRS 441.046 and the person's photograph. The local detention facility shall send the fingerprints and the photograph to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.

(5) ***(a)*** The appropriate probation and parole office shall send the ***registration form containing the registrant information as well as any special conditions imposed by the court or the Parole Board,***[~~form~~] to the Information Services Center, Kentucky State Police, Frankfort, Kentucky ***40601***.

(b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.

(c) Any employee of the Justice Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.

(6) Any person who has[~~ pled guilty or~~] been convicted in a court of another state ***or territory***,[~~ of~~] a court of the United States, or a court martial of the United States Armed Forces of [~~the commission or attempt to commit~~] a sex crime ***or criminal offense against a victim who is a minor, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws,*** shall be informed at the time of his ***or her*** relocation to Kentucky of the duty to register under this section***, and to comply with the requirements of subsection (4)(b) of this section,*** by the interstate compact officer of the Department of Corrections or the Department of Juvenile Justice. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall order the person to complete the registration form***, and the officer shall facilitate the registration process***. The officer shall then send the form***, including any special conditions imposed by the court or the Parole Board in the state of conviction*** to the Information Services Center, Kentucky State Police, Frankfort, Kentucky ***40601, and to the appropriate local probation and parole office in the county of the registrant's residence***.

(7) If a person is required to register[~~ as a sex offender~~] under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration[~~ under this section~~] if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section ***and the requirements of subsection (4)(b) of this section and shall register with the appropriate local probation and parole office in the county of employment, vocation, or schooling***. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

(8) The registration form shall be a written statement signed by the person which shall include ***registrant***[~~sex offender~~] information.

(9) For purposes of this section and KRS 17.550 to 17.991, a post office box number shall not be considered an address.

(10) ***(a)*** If the residence address of any registrant changes, ***but the registrant remains in the same county,*** the person shall register, ***on or before the date***[~~within ten (10) days~~] of the change of address, with the appropriate local probation and parole office in the county ***in which he or she resides***[~~of his new residence~~].

(b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of

address.

2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) days after the date of the change of address.

(c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.

2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section~~[The appropriate local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky]~~.

(11) Any person required to register under this section who violates any of the provisions of this section is guilty of a Class ***D felony***~~[A misdemeanor]~~.

(12) Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class ***D felony***~~[A misdemeanor]~~.

(13) ***(a)*** The ***Justice Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under subsection (2) of Section 17 of this Act and at least once every calendar year for a person required to register under subsection (3) of Section 17 of this Act. If the Justice Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under paragraphs (a) and (b) of subsection (10) of this section, the Justice Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate corrections agency.***

(b) When the appropriate court, Parole Board, or appropriate corrections agency receives notice from the Justice Cabinet, or any other source, that a person has failed to comply with any of the registration requirements under this section, then the court, Parole Board, or corrections agency:

1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and

2. Shall notify the appropriate county attorney for prosecution~~[appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section.~~

~~(14) The statement required by subsection (6) of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.~~

~~(15) Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor]~~.

Section 17. KRS 17.520 is amended to read as follows:

(1) ***A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time under this section.***

(2) (a) Lifetime registration is required for:

1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;

2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;

3. Any person convicted of a sex crime:

a. Who has one (1) or more prior convictions of a criminal offense against a victim who is a minor; or

b. Who has one (1) or more prior sex crime convictions;

4. Any person who has been convicted of two (2) or more criminal offenses against a victim who is a minor;

5. Any person who has been convicted of:

a. Rape in the first degree under KRS 510.040; or

b. Sodomy in the first degree under KRS 510.070; and

6. Any sexually violent predator.

(3) All other registrants are required to register for ten (10) years following discharge from confinement or ten (10) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.

(4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the reincarceration.

(5) An offender who has pled guilty or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.

(6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601[~~Persons classified as high risk sex offenders as provided by subsection (3) of KRS 17.550 shall remain registered for the lifetime of the offender, unless redesignated pursuant to KRS 17.578.~~

~~(2) Persons classified as low or moderate risk sex offenders shall remain registered for a period of ten (10) years following their discharge from confinement or ten (10) years following their maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.~~

~~(3) If a sex offender is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the subsequent incarceration~~].

Section 18. KRS 17.550 is amended to read as follows:

As used in KRS 17.550 to 17.991, the following definitions shall apply:

(1) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;.

(2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500[~~ who suffers from a mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety~~];

(3)[~~ "High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator as defined by 42 U.S.C. sec. 14071. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;~~

~~(4) "Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;~~

~~(5) "Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;~~

~~(6) "Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that individual to the commission of a sex crime;~~

~~(7) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;~~

~~(8)~~] "*Approved*[~~Certified~~] provider" means a mental health professional *licensed or* certified *in Kentucky whose scope of practice includes providing mental health treatment services and who is approved* by the Sex Offender Risk Assessment Advisory Board*, under administrative regulations promulgated by the board,* to *provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020*[~~conduct sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessment pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045~~]; and

(4)[~~(9)~~]"Victim" means victim as defined by KRS 421.500.

SECTION 19. A NEW SECTION OF KRS 17.550 TO 17.991 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky State Police shall establish a website available to the public. The website shall display:

(a) The registrant information, except for information that identifies a victim, fingerprints, and Social Security numbers, obtained by the Information Services Center, Kentucky State Police, under Section 16 of this Act; and

(b) The sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Kentucky State Police, under KRS 17.510 prior to the effective date of this Act.

The website shall be updated every day except for Saturdays, Sundays, and state holidays.

(2) The information pertaining to an individual shall be maintained on the website so long as that individual is registered in accordance with KRS 17.500 to 17.540.

(3) The following language shall be prominently displayed on the website: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEBSITE TO HARASS A PERSON IDENTIFIED ON THIS WEBSITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEBSITE."

(4) (a) Any Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.

(b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.

(5) The Justice Cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the website created in this section and the location of public access to the website in the county where the person resides.

Section 20. KRS 17.552 is amended to read as follows:

No person shall conduct ***comprehensive sex offender presentence evaluations or treatment***[~~ sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045,~~] without first obtaining ***approval***[~~a certification~~] from the Sex Offender Risk Assessment Advisory Board.

Section 21. KRS 17.554 is amended to read as follows:

(1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall ***approve***[~~certify~~] providers who shall conduct ***comprehensive sex***[~~ sexual~~] offender ***presentence evaluations and treatment***[~~risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045~~].

(2) The board shall develop a ***comprehensive sex offender presentence evaluation***[~~risk assessment procedure~~] that shall be used by ***approved***[~~certified~~] providers in assessing the risk of recommitting a sex crime by a sex offender***,***[~~ and~~] the threat posed to public safety***, amenability to sex offender treatment, and the nature of the required sex offender treatment***. The ***evaluation***[~~procedure~~] shall be based upon, but not limited to the following factors:

- (a) Criminal history;
- (b) Nature of the offense;
- (c) Conditions of release that minimize risk;
- (d) Physical conditions that minimize risk;
- (e) Psychological or psychiatric profiles;
- (f) Recent behavior that indicates an increased risk of recommitting a sex crime;
- (g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and
- (h) Review of the victim impact statement.

Section 22. KRS 17.558 is amended to read as follows:

(1) The board may issue, refuse to issue, reissue, or renew a provider ***approval***[~~certificate~~], or may probate, suspend, or revoke the ***approval***[~~certificate~~] of a provider[~~ who conducts sexual offender assessments~~].

(2) The board shall revoke the ***approval***[~~certificate~~] of a provider[~~ who conducts sexual offender assessments~~] while his ***or her approval***[~~certification~~] is suspended.

Section 23. KRS 17.560 is amended to read as follows:

(1) Prior to the refusal to issue, renew, probate, suspend, or revoke the ***approval***[~~certificate~~] of a provider, the board shall conduct a hearing in accordance with the provisions of this chapter and KRS Chapter 13B.

- (a) The hearing may be conducted by a hearing officer;
- (b) The hearing officer may only issue a recommended order, and the recommended order shall be subject to review by a majority of the full board, which shall issue a final order.

(2) The board may proceed against ***an approved***[~~a certified~~] provider on its own initiative, on the basis of either information contained in its own records, or information obtained through its informal investigation.

(3) If a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization containing allegations that if true would warrant action, the board may proceed against the ***approved***[~~certified~~] provider.

(4) Any final order of the board may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 24. KRS 17.564 is amended to read as follows:

(1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of KRS 17.550 to 17.991.

(2) The board may promulgate administrative regulations requiring mandatory continuing education for ***approved***~~[certified]~~ providers~~[to continue conducting sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045,]~~ as a condition for obtaining their renewal ***approvals***~~[certificates]~~.

Section 25. KRS 17.566 is amended to read as follows:

Only persons ***approved***~~[certified]~~ under KRS 17.550 to 17.991 may be known as ***approved***~~[certified]~~ providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are ***approved***~~[certified]~~ providers~~[who conduct sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045]~~.

Section 26. KRS 17.574 is amended to read as follows:

(1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a sex offender to be discharged, paroled, or released to the ***approved***~~[certified]~~ provider for review prior to the release or discharge for consideration in making recommendations to the sentencing court. The relevant information shall include but is not limited to:

(a) The institutional record;

(b) The medical record including all psychological records; and

(c) The treatment record.

(2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court or by another person duly authorized to release the information.

Section 27. KRS 17.576 is amended to read as follows:

Communications made in the course of ***comprehensive sex offender presentence evaluations or treatment***~~[sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, or 532.045]~~ to the ***approved***~~[certified]~~ provider and any employee of the ***approved***~~[certified]~~ provider who is assigned to assist in the assessments shall be privileged from disclosure in any civil or criminal proceeding, ***other than to determine sentence,*** unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.

Section 28. KRS 17.578 is amended to read as follows:

~~[(1)~~]A person ***required to register under the provisions of Sections 16 and 17 of this Act shall be relieved of any further duty to register only upon reversal of the underlying conviction or upon a pardon***~~[designated a "high risk sex offender" and who is required to register for his lifetime pursuant to the provisions of this chapter may be relieved of any further duty to register upon the grant of a petition for relief by the sentencing court entered no earlier than ten (10) years after the date of discharge from probation, parole, or release from incarceration, whichever is most recent. If the petition is denied, the person may petition for relief from the high risk designation every five (5) years thereafter.~~

~~(2) Upon receipt of the petition for relief, the sentencing court shall request an updated assessment to a certified provider.~~

~~(3) The sentencing court shall conduct a second hearing as provided in KRS 17.570]~~.

SECTION 29. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

No registrant, as defined in Section 15 of this Act, who is placed on probation, parole, or any form of supervised release, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence.

SECTION 30. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.540 and KRS 17.550 to 17.991:

(1) Law enforcement agencies including the Justice Cabinet;

(2) Independent contractors acting under the direction of law enforcement agencies;

(3) State and county officials;

(4) Approved providers, as defined under Section 18 of this Act; and

(5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

Section 31. KRS 197.410 is amended to read as follows:

(1) A person is considered to be a "sexual offender" as used in this chapter when he ***or she has been adjudicated guilty of a sex crime, as defined in Section 15 of this Act, or any similar offense in another jurisdiction***~~[:~~

~~(a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or~~

~~(b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or~~

~~(c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or~~

~~(d) Has been adjudicated guilty of a felony offense under KRS 530.020; or~~

~~(e) Has been adjudicated guilty of a felony offense relating to sexual activity under KRS 530.064; or~~

~~(f) Has been adjudicated guilty of a felony offense under KRS 531.310]~~.

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or department officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and

(b) Is likely to benefit from the program.

(3) "Department" is the Department of Corrections.

Section 32. KRS 197.440 is amended to read as follows:

Communications made in the application for or in the course of a sexual offender's diagnosis and treatment in the program between a sexual offender or member of the offender's family and any employee of the department who is assigned to work in the program, ***or approved provider, as defined in Section 18 of this Act,*** shall be privileged from disclosure in any civil or criminal proceeding, ***other than proceedings to determine the sentence,*** unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The privilege created by this section shall not extend to disclosures made for the purpose of determining whether the offender should continue to participate in the program. The offender shall be informed in writing of the limits of the privilege created in this section.

Section 33. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.

(b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.

(4) If the defendant has been convicted of an offense under KRS 510.040, 510.050, 510.070, 510.080, 530.020, 530.064, or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.

(5) ***When a defendant has been convicted of a sex crime, as defined in Section 15 of this Act, the court shall order a comprehensive sex offender presentence evaluation, unless one has been provided within the past six (6) months, in which case the court may order an update of the comprehensive sex offender presentence evaluation***~~[If the defendant has been convicted of an offense under KRS 510.060, 510.090, or 510.110, prior to considering the motion to suspend a sentence, the court shall order an evaluation]~~ of the defendant~~[to be]~~ conducted by the sex offender treatment program

operated or approved by the Department of Corrections or the ***Sex Offender Risk Assessment Advisory Board***~~[Department for Mental Health and Mental Retardation Services]~~. The ***comprehensive sex offender presentence*** evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(6) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(7) The provisions of this section shall not apply where a sentence of death has been imposed.

Section 34. KRS 532.045 is amended to read as follows:

(1) As used in this section:

(a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;

(b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and

(c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.

(2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.040, 510.050, 510.070, 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:

(a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;

(b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;

(c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

(d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;

(e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;

(f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;

(g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;

(h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or

(i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of three (3) years conditional discharge required by KRS 532.043.

(3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of ***the comprehensive sex offender presentence***~~[an]~~ evaluation of the offender performed by ***an approved provider, as defined in Section 18 of this Act or*** the~~[sex offender treatment program operated or approved by the]~~ Department of Corrections~~[or the Department for Mental Health and Mental Retardation Services]~~. The court shall use the ***comprehensive sex offender presentence*** evaluation in determining the appropriateness of probation or conditional discharge.

(4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or

conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the ***Sex Offender Risk Assessment Advisory Board***[~~Department for Mental Health and Mental Retardation Services~~].

(5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the ***comprehensive sex offender presentence*** evaluation or treatment.

(6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.

(7) ***The comprehensive sex offender presentence evaluation and*** all communications relative to the ***comprehensive sex offender presentence*** evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440***. The comprehensive sex offender presentence evaluation shall be filed under seal*** and shall not be made a part of the court record subject to review in appellate proceedings ***and shall not be made available to the public***.

(8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any ***comprehensive sex offender presentence*** evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel ***and the Commonwealth's attorney*** a copy of the ***comprehensive sex offender presentence*** evaluation. It shall not be necessary to disclose the sources of confidential information.

(9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

Section 35. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) If the defendant has been convicted of ***a sex crime, as defined in Section 15 of this Act***[~~any felony offense under KRS Chapter 510, 530.020, 530.064, 531.310, any sexual offense under KRS 506.010 or 506.030, or any other felony offense committed in conjunction with a misdemeanor under KRS Chapter 510, the court shall~~], prior to determining the sentence, ***the court shall*** order ***a comprehensive sex offender presentence***[~~an~~] evaluation of the defendant to be conducted by ***an approved provider, as defined in Section 18 of this Act or*** the[~~ sexual offender treatment program operated or approved by the~~] Department of Corrections[~~ or the Department for Mental Health and Mental Retardation Services~~]. The ***comprehensive sex offender presentence*** evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment and shall be considered by the court in determining the appropriate sentence. A copy of the ***comprehensive sex offender presentence*** evaluation shall be furnished to the ***court, the Commonwealth's attorney,***[~~Commonwealth~~] and to ***counsel for*** the defendant. If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the ***comprehensive sex offender presentence*** evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any ***comprehensive sex offender presentence*** evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the ***comprehensive sex offender presentence*** evaluation or treatment.

(5) The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.

(6) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

Section 36. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional

institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.

(4) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1) ***or a crime under subsection (11) or (12) of Section 16 of this Act***, the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this subsection shall be granted a waiver by the commissioner of the Department of Corrections.

(5) The jailer of a county in which a Class D felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.

(6) Class D felons serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).

(7) State prisoners, excluding the Class D felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

Section 37. The provisions of Sections 15 to 30 of this Act shall apply to all persons who, after the effective date of this Act, are required under Section 16 of this Act to become registrants, as defined in Section 15 of this Act."; and

On page 18, line 6, delete "15" and insert in lieu thereof "38"; and

On page 18, between lines 6 and 7 insert:

"17.570 Order for sex offender risk assessment -- Cost -- Hearing -- Appeal -- Notice to sheriff upon release of sex offender.
17.572 Notification for high, moderate, and low risk sex offenders."; and

On page 18, after line 8, insert:

"Section 39. Whereas the federal government has mandated that the Commonwealth immediately enact public safety legislation contained in Sections 15 to 38 of this Act or lose federal funding, an emergency is declared to exist, and Sections 15 to 38 of this Act take effect upon this Act's passage and approval by the Governor or upon this Act otherwise becoming law.".

Floor Amendment No. 4 Title to **SB 263**, by Representative Damron:

By amending the title to read as follows: "AN ACT relating to public safety and declaring an emergency.".

Floor Amendment No. 2 to **SB 305**, by Representative Barrows:

On page 1, lines 10 and 11, by bracketing and striking through the words "all of the following criteria are met", and

On page 1, line 12, after the word "is" by inserting "***located in a county in a rural area that is***", and

On page 1, line 13, after the word "drive" by inserting "***, or where the terrain is mountainous or only secondary roads are available is located more than a fifteen (15) mile drive,***", and

On page 1, line 14, after the semicolon, by inserting "***or***", and

On page 1, line 15, by placing an opening bracket before the word "Where" and on page 1, line 17, by placing a closing bracket after the word "is" and by striking through all language between, and

On page 1, line 20, after the closing bracket, by inserting "***For the purposes of paragraph (a) of this subsection, a hospital shall be considered to be located in a rural area if***", and

On page 1, line 21, after the word "area" by inserting "***, the hospital is located in a rural census tract of a metropolitan statistical area as determined under the most recent modification of the Goldsmith Modification,*** ", and

On page 1, line 21, after the word "***provider***" by inserting "***. The secretary shall designate a hospital as a rural provider if the hospital is not located in a county which has the largest county population of a standard metropolitan statistical area;***", and

On page 5, after line 7, by inserting the following:

"Section 2. Whereas the regulation of critical access hospitals is vital to the health care needs of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

Floor Amendment No. 3 Title to **SB 305**, by Representative Barrows:

By amending the title to read as follows:

"An ACT relating to critical access hospitals, and declaring an emergency."

Floor Amendment No. 1 to **SB 28**, by Representative Anderson:

On page 2, after line 1, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "two-way mirror or other viewing device" means a mirror, peephole, mechanical viewing device, camera, or any other instrument or method that can be utilized to surreptitiously observe a person.

(2) A person is guilty of unlawfully installing or maintaining a two-way mirror or other viewing device when, being the owner or manager of any premises, the person knowingly permits such a device to be installed or maintained on the premises for the purpose of surreptitiously observing the interior of any fitting room, restroom, toilet, bathroom, washroom, shower, or any room assigned to guests or patrons in a motel, hotel, or inn.

(3) A person is guilty of unlawfully installing or maintaining a video recording device when, being the owner or manager of any premises, the person knowingly permits or allows such a device to be installed on the premises for the purpose of surreptitiously recording a visual image of the interior of any fitting room, restroom, toilet, bathroom, washroom, shower, or any other room assigned to guests or patrons in a motel, hotel, or inn.

(4) The provisions of this section shall not apply to the following premises:

(a) Public correctional facilities or medical facilities used for medical treatment;

(b) Treatment facilities used for the care of persons who are committed or voluntarily confined to or receiving treatment;

(c) Facilities operated by any federal, state, or local law enforcement agency;

(d) Private dwellings; or

(e) Fitting rooms otherwise subject to the provisions of this section at which the owner or manager has conspicuously displayed at the entrance a written notice stating that a two-way mirror or other viewing or video recording device has been installed for the purpose of observing the interior of the room.

(5) Whenever a violation of this section occurs, the Commonwealth's attorney may apply for an injunction to the District Court having jurisdiction over the violator. The court, upon a hearing, if it determines that this section has been violated, may issue an injunction prohibiting the violator from further violating this section.

(6) Each unlawfully installed two-way mirror or other viewing device or video recording device shall constitute a separate and distinct violation of this section.

(7) A violation of subsection (2) or (3) of this section shall be a Class D felony."

Floor Amendment No. 2 to **SB 218**, by Representative Webb:

On page 32, between lines 11 and 12, insert:

"SECTION 18. A NEW SECTION OF KRS 205.710 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) In any county where the county attorney is the designee of the cabinet for the purpose of administering the program of child support recovery, the county attorney may appoint one (1) or more child support enforcement officers to assist in the execution or service of all forms of legal process relating to the establishment, enforcement, and collection of child support. These officers shall have all the powers of a peace officer under state law. A child support enforcement officer shall not be automatically deemed an interested party in litigation merely by virtue of serving process on behalf of the Commonwealth.

(2) Any person appointed a child support enforcement officer shall meet the minimum requirements of a peace officer contained in KRS 61.300.

(3) Within one (1) year of the appointment of any child support enforcement officer, the county attorney shall obtain Kentucky Law Enforcement Council certification of each appointee under KRS 15.380 to 15.402. If the county attorney

seeks certification through Kentucky Law Enforcement Council administered tests, the council shall waive all costs of the required tests under KRS 15.384.

(4) Any deputy constable performing services for a county attorney under KRS 205.782 on the effective date of this Act, who is appointed a child support enforcement officer by that county attorney, shall be granted certified status as long as that deputy constable holds the appointment under that county attorney. Any deputy constable who leaves the employ of a county attorney and seeks employment with another county attorney in the capacity of a child support enforcement officer shall be required to comply with the certification process of the Kentucky Law Enforcement Council as described in subsection (3) of this section."; and

On page 32, line 12, delete "18" and insert in lieu thereof "19".

Floor Amendment No. 1 to **SB 317**, by Representative Walton:

On page 9, after line 20, by inserting the following:

"Section 3. KRS 157.196 is amended to read as follows:

(1) The General Assembly declares that parents play a critical role in the education of their students. Parents have a major responsibility to assist in the education of their students and deserve respect and meaningful involvement in the decision-making process related to the students' education.

(2) Each exceptional student as defined in KRS 157.200 shall have an individual education plan that shall serve as the centerpiece of the student's educational career and the communication vehicle between the parents and school personnel. The plan shall enable the parents and school personnel to decide the student's educational needs, the services needed to achieve those needs, and the anticipated results. The plan shall be used as a document to monitor the student's progress. School personnel shall provide the parents with reports of the progress toward the student's annual goals at least as often as report cards go to nondisabled students.

(3) The Kentucky Board of Education shall promulgate administrative regulations establishing procedures for the development and monitoring of individual education plans that are in compliance with the Federal Individuals with Disabilities Education Act, as amended. These administrative regulations shall be written in clear, easily understood language that is free of education jargon *and neither the administrative regulations nor interpretation thereof shall exceed federal requirements*.

Section 4. KRS 157.220 is amended to read as follows:

(1) The Department of Education is hereby designated as the agency for cooperation with the state and federal government agencies, the nonpublic school programs and local schools of Kentucky in carrying out the provisions of KRS 157.200 to 157.280. *The Kentucky Board of Education shall not promulgate administrative regulations, nor make interpretations governing the education of exceptional children and youth, as defined in KRS 157.200(1) and KRS 157.226(1) which exceed requirements under federal law.* The Kentucky Board of Education shall make necessary rules and regulations in keeping with the provisions of KRS 157.200 to 157.280 for their proper administration, including but not limited to establishment of classes, eligibility and admission of pupils, the curriculum, class size limitations, housing, special equipment, and instructional supplies. *However, no administrative regulation promulgated in these areas or interpretation thereof, shall exceed federal requirements.*

(2) The Department of Education is authorized to receive contributions and donations that may be made to carry out the provisions and requirements of KRS 157.200 to 157.280.

(3) Local supervision of special educational facilities for exceptional children shall be approved by the Department of Education according to rules and regulations approved by the Kentucky Board of Education."

Floor Amendment No. 1 to **SB 87**, by Representative Rasche:

On page 24, after line 27, by inserting the following language:

Section 6. KRS 6.505 is amended to read as follows:

(1) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent

(6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530. An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.

(2) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(3) *(a)* ***Except as otherwise provided in paragraph (b) of this subsection,*** when any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.

(b) ***Any other provision of law to the contrary notwithstanding, a member of the Legislators' Retirement Plan who was previously an active member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System, and who would otherwise qualify for active membership in one of those plans, may elect, in writing, to transfer out of the Legislators' Retirement Plan to that other retirement plan for which the member would otherwise qualify. If an election under this paragraph is made, all service credit and benefits earned as a member of the Legislators' Retirement System shall be transferred, as well as the dollar amount equal to the member's and employer's contributions from the date the contributions were made to the date of the transfer, plus interest, at the actuarially assumed interest rate for the Legislators' Retirement Plan. The member shall be entitled to the transferred service credit in the plan to which the member seeks transfer, when the member pays the difference, if any, between the amount of the funds transferred by the Legislators' Retirement Plan and the cost of the credit to the system accepting the transfer as determined by the receiving system's actuary.***

(4) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552.

Floor Amendment No. 1 to **SB 223**, by Representative Anderson:

On page 3, between lines 7 and 8, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) ***The Department of Corrections shall promulgate administrative regulations in accordance with KRS Chapter 13A for implementation of a simplified process for restoring voting rights to eligible felony offenders. In creating this process, the Department of Corrections shall:***

(a) Generate a list of all eligible offenders on a monthly basis;

(b) Compile necessary information and conduct an investigation to ensure that all restitution has been paid and that there are no outstanding warrants, charges, or indictments; and

(c) Forward information on eligible felony offenders to the Office of the Governor on a monthly basis for consideration.

(2) As used in this section, "eligible felony offender" means a person convicted of one (1) of more felonies who:

(a) Has reached the maximum expiration of his sentence or received final discharge from the Parole Board;

(b) Does not have any pending warrants, charges, or indictments; and

(c) Has paid full restitution as ordered by the court or the Parole Board.", and

By renumbering the subsequent section accordingly.

Floor Amendment No. 2 Title to **SB 223**, by Representative Anderson:

By amending the title to read as follows: "AN ACT relating to criminal justice.".

Floor Amendment No. 5 Title to **SB 263**, by Representative Wilkey:

By amending the title to read as follows: "AN ACT relating to public safety."

Floor Amendment No. 1 to **SB 15**, by Representative Barrows:

On page 4, after line 13 by inserting the following:

"Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of

current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means***:***

(a) The creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used***; or***

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred

(100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 3. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or

former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account; or***

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions

picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

   (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

   (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

   (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

   (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.".

Floor Amendment No. 2 to **SB 87**, by Representative Barrows:

On page 9, line 13, after the word "***used;***" by inserting the following:

"***or***

(c) For a member who is not employed in a hazardous position, as provided in Section 3 of this Act, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;"; and

On page 18, line 3, after "(b)" by inserting the following:

"***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account; or***

(c)".

Floor Amendment No. 3 to the House Committee Substitute to **SB 288**, by Representative Damron:

On page 4, lines 11, 12, and 13, by removing the brackets and strikethroughs; and

On page 9, line 20, by deleting "***twenty-six (26)***" and inserting in lieu thereof "***twenty-eight (28)***"; and

On page 10, line 3, after "Association" by inserting "***,***" and by placing brackets around and striking through "and"; and

On page 10, line 5, after "employees" by inserting "***, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2000) or more members on state payroll deduction***".

Floor Amendment No. 1 to the House Committee Substitute No. 2 to **SB 290**, by Representative Anderson:

On page 14, line 6, by deleting "This Act" and inserting "Sections 1 to 17 of this Act" in lieu thereof; and

On page 14, after line 7, by inserting the following:

"Section 18. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the Environmental Quality Commission;

(6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;

(7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:

  (a) "Composting" may include a process which creates an anaerobic zone within the composting material;

  (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;

(8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(11) "District" means an air pollution control district as provided for in KRS Chapter 77;

(12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(13) "Generator" means any person, by site, whose act or process produces waste;

(14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;

(15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;

(16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;

(17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;

(19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;

(20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;

(21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;

(22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or

processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;

(23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;

(24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;

(26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;

(28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(31) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;

2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;

3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and

4. "Municipal solid waste" means household solid waste and commercial solid waste; and

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS

Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);

(33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;

(35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;

(36) "NPDES" means National Pollutant Discharge Elimination System;

(37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;

(39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;

(40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;

(41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;

(42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;

(43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;

(44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;

(45) "Universal collection" means a municipal solid waste ***curbside or end-of-driveway*** collection system which is established by ordinance and approved by the cabinet and requires ***participation***[~~access for~~] each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;

(46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;

(47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;

(48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;

(49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;

(50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);

(51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;

(52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and

other printed material; and

(53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

SECTION 19. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Each county, urban-county government, or charter county government shall provide a universal collection program by July 1, 2001, for all municipal solid waste generated within the county. This collection program shall provide for curbside collection or collection at the end of driveways, and collection shall not be interrupted for failure to pay collection fees. Collection service may be provided by the county, by contract with a private entity, or franchise.

(2) The county, urban-county government, or charter county government may enter into agreements, contracts, and other arrangements, including agreements for the cooperative or joint administration of universal collection, with municipalities, corporations, public and private agencies, associations, organizations, or individuals as necessary to maintain and operate a system of universal collection.

(3) The county, urban-county government, or charter county government may maintain staffed convenience centers or transfer facilities for the disposal of appliances, drop-off of bulk solid waste, and drop-off of recovered material.

(4) A commercial or industrial entity that transports or contracts for the transport of solid waste it generates or that operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program with approval by the county, urban-county government, or charter county government. A commercial or industrial entity that contracts for the transport of solid waste may be required to periodically show proof that its solid waste is disposed of properly as determined by the county, urban-county government, or charter county government. The service provider of universal collection for a commercial or industrial entity shall comply with any county reporting requirements that may be established under Section 3 of this Act.

SECTION 20. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The county, urban-county government, or charter county government shall amend its solid waste management plan to include how universal collection is operated and enforced, including the method of billing and collecting fees and delinquent fees, and the method for tracking solid waste generators moving into the county.

(2) The county, urban-county government, or charter county government shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with requirements established by this section. The report shall include the status and progress of the universal collection program, number of households served, volume of solid waste collected, strategy for pursuing delinquent accounts, strategy for pursuing nonsubscribers to the collection service, and method of tracking households or solid waste generators moving into the county.

(3) The county, urban-county government, or charter county government shall:

- *(a) Require and maintain reports from all service providers of universal collection on households or businesses served, volume of solid waste collected, and destination of solid waste; and*
- *(b) Require and maintain reports from all service providers of curbside recycling as well as all recycling facilities, including scrap processors engaged in the collection and recycling of recovered materials, on the households served, volume of recovered material collected, and destination of recovered material.*

(4) The information required in subsection (3) of this section shall remain confidential and for the exclusive use of the county, urban-county government, or charter county government in reporting aggregate numbers of solid waste collection activities to the state.

SECTION 21. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A county, urban-county government, or charter county government shall be responsible for collecting delinquent solid waste pick-up fees and for insuring that collection of solid waste continues when pick-up fees are not paid.

(2) A county, urban-county government, or charter county government may establish reduced solid waste pick-up fees for low-income households.

(3) A county, urban-county government, or charter county government may establish charges and penalties for nonpayment of solid waste pick-up fees to defray administrative costs of fee collection.

(4) In addition to the remedy established in KRS 109.310 for the collection of delinquent solid waste pick-up fees, the county, urban-county government, or charter county government may place a lien upon all motor vehicles owned or leased by a person who fails or refuses to pay the solid waste pick-up fee for the amount of the fee and may take and retain possession thereof until the amount of the fee and all charges and penalties in connection therewith shall have been paid.

(5) A county, urban-county government, or charter county government may provide a list of names of individuals who fail

or refuse to pay solid waste pick-up fees to the Transportation Cabinet on a monthly basis. The Transportation Cabinet shall provide the list of names and appropriate information to the Department of Information Systems for inclusion in the automated vehicle information system database. Any motor vehicle registered to such an individual shall not have its registration renewed until proof of payment of solid waste pick-up fees has been presented to the county clerk. Upon proof of payment and payment of reinstatement fee according to Section 24 of this Act, the county clerk shall remove the information from the AVIS database and immediately renew the vehicle registration.

SECTION 22. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The Commonwealth shall not endorse projects under the Kentucky intergovernmental review process for any county, urban-county government, or charter county government that fails to implement and maintain a successful universal collection program as determined by the cabinet.

SECTION 23. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish reporting requirements and standards for a county, urban-county government, or charter county government on the implementation and maintenance of universal collection.

Section 24. KRS 186.180 is amended to read as follows:

(1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.

(2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars ($3) for each plate and a fee of three dollars ($3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars ($5) of which the clerk shall be entitled to three dollars ($3) and the cabinet shall be entitled to two dollars ($2).

(4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of twenty dollars ($20), which shall be equally divided between the county clerk and the cabinet.

(5) If the owner's registration is not renewed as a result of the provisions set forth in Section 21 of this Act, the owner may have his or her registration renewed by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof that solid waste pick-up fees have been paid. The owner shall pay to the clerk a fee of ten dollars ($10), which shall be equally divided between the county clerk and the cabinet.

SECTION 25. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) The Department of Vehicle Regulation shall provide and receive information on the nonpayment of solid waste pick-up fees in accordance with Section 21 of this Act. The department shall provide appropriate delinquent fee information to the Department of Information Systems for inclusion in the AVIS database.

(2) A motor vehicle registered to a person who is listed in the AVIS database as being delinquent in the payment of solid waste pick-up fees shall not have the registration of the motor vehicle renewed until the person presents proof of payment to the county clerk and pays the reinstatement fee required by Section 24 of this Act.

SECTION 26. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet may solicit and receive grants, contributions of money, property, labor, or other things of value from any governmental agency, nonprofit organization, or private business to be used for the Adopt-a-Highway litter reduction program.

(2) Moneys received under this section shall be deposited in the State Treasury and credited to the Transportation Cabinet solely for use by the Adopt-a-Highway Program.

Section 27. The following KRS section is repealed:

224.43-315 Requirement for county universal municipal solid waste collection program -- Options -- Annual report -- Performance contract -- Effect of failure to comply -- Exclusion."

Floor Amendment No. 2 to the House Committee Substitute No. 2 to **SB 290**, by Representative Anderson:

On page 14, line 6, by deleting "This Act" and inserting "Sections 1 to 17 of this Act" in lieu thereof; and

On page 14, after line 7, by inserting the following:

"Section 18. The Solid Waste and Recycling Task Force is created and shall be composed of the following: five (5) members of the General Assembly selected by the Legislative Research Commission, two (2) of whom shall be members of the Interim Joint Committee on Agriculture and Natural Resources; a representative of the Kentucky Council of Area Development Districts; a representative of the Kentucky League of Cities; a representative of the Kentucky Association of Counties; a representative of the Department for Local Government; a representative of the Natural Resources and Environmental Protection Cabinet; a representative of the Adopt-a-Highway District Coordinators; a representative of the Kentucky Environmental Education Council; a representative of the Solid Waste Coordinators of Kentucky; a representative of the Kentucky Farm Bureau Federation; a representative of the Kentucky Retail Federation; a representative of the Kentucky Bottler's Association; a representative of the Kentucky Grocers Association; a representative of the League of Kentucky Sportsmen; a representative of the Kentucky Urban Affairs Council; a representative of the Kentucky Resources Council; and a representative of the Department of Corrections. The Legislative Research Commission shall select the chair for this task force.

Section 19. The Solid Waste and Recycling Task Force created in Section 18 of this Act shall begin with the proposition that litter and illegal dumping are problems in the Commonwealth, and the purpose of the task force shall be to develop policy recommendations to solve these two (2) problems, and to recommend necessary funding mechanisms to address these problems. The task force shall also recommend policies to promote recycling of recovered materials, including recommendations for funding mechanisms to provide the necessary recycling infrastructure and ways to promote market development. The task force may examine specific issues regarding the implementation or mechanics of container deposit legislation raised by the Special Task Force on Container Deposit that was created during the 1998 Regular Session. However, the task force shall not examine or debate the pros and cons of container deposit legislation. The task force shall conclude its review by issuing recommendations to the Legislative Research Commission no later than September 30, 2001.

Section 20. The members of the task force created in Section 18 of this Act shall be reimbursed for expenses incurred to attend task force meetings.

Section 21. Staff services for the task force created in Section 18 of this Act shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 22. Provisions of Sections 18 to 21 of this Act notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date."

Floor Amendment No. 3 to the House Committee Substitute No. 2 to **SB 290**, by Representative Anderson:

On page 14, line 6, by deleting "This Act" and inserting "Sections 1 to 17 of this Act" in lieu thereof; and

On page 14, after line 7, by inserting the following:

"SECTION 18. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 18 to 26 of this Act, unless the context requires otherwise:

(1) "Board" means the board of directors of the Kentucky Recycling Cooperative Group;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Distribution center" means a recycling facility that is capable of receiving a variety of unprocessed or processed materials from satellite centers and materials recovery facilities, and that stores the material for further processing or for transport to the marketplace;

(4) "Group" means the Kentucky Recycling Cooperative Group;

(5) "Local government" means any county, urban-county government, waste management district, city, or charter county government;

(6) "Participating local government" means a local government entity that joins a region and participates in the Kentucky Recycling Cooperative Group;

(7) "Executive director" means the executive director of the Kentucky Recycling Cooperative Group, who shall also serve as chief executive officer of the group;

(8) "Region" means a group of three (3) or more counties combined to form a recycling operation; and

(9) "Satellite center" means a local government collection site for recovered materials containing minimal equipment that prepares material for transport to a materials recovery facility or distribution center.

SECTION 19. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a state recycling cooperative program, which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky that shall be a public body corporate and politic to be known as the Kentucky Recycling Cooperative Group. The group shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This group shall perform functions and purposes essential to managing the recycling cooperative program and disbursing moneys from the recycling cooperative fund established in Section 26 of this Act. It is the intent of the General Assembly that the Kentucky Recycling Cooperative Group shall assist regions in establishing a recycling cooperative program whereby participating local governments will be able to operate recycling programs and combine recovered material in order to market that material collectively through the Kentucky Recycling Cooperative Group.

(2) The existence of the group shall begin upon appointment of the members of the group by the Governor as provided in Section 20 of this Act, which shall occur no later than October 1, 2000.

(3) Participating local governments shall be eligible to receive grant and other money from the recycling cooperative fund established in Section 26 of this Act.

SECTION 20. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the group shall be administered by a board of directors composed of fifteen (15) members as follows:

(a) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Council of Area Development Districts;

(b) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky League of Cities;

(c) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Association of Counties;

(d) One (1) person appointed by the Governor from the Department for Local Government;

(e) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Jailers' Association;

(f) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Sheriffs' Association;

(g) One (1) person appointed by the Governor, from a list of three (3) persons nominated by Adopt-a-Highway district coordinators;

(h) One (1) person appointed by the Governor from the Kentucky Environmental Education Council;

(i) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Solid Waste Coordinators of Kentucky;

(j) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Farm Bureau Federation;

(k) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Retail

Federation;

(l) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Bottlers' Association;

(m) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Grocers' Association;

(n) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Urban Affairs Council; and

(o) One (1) person appointed by the Governor from the Department of Corrections.

(2) No member of the board of directors shall knowingly use or attempt to use his or her influence in any manner that involves a substantial conflict between the member's personal or private interest and his or her duties to the group.

(3) Of the fifteen (15) members identified in paragraphs (a) to (o) of subsection (1) of this section and first appointed, five (5) shall continue in office for terms of one (1) year, five (5) for terms of two (2) years, and five (5) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case in the same manner as originally appointed. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. Members shall elect their own chair.

(4) Eight (8) members of the group shall constitute a quorum.

(5) The members of the Kentucky Recycling Cooperative Group shall serve without compensation but shall be reimbursed the reasonable and necessary expenses incurred by the members in performing the work of the group to be paid as an administrative cost of the group.

(6) The executive director of the group shall be hired by the board of directors. The executive director shall be qualified by training and experience to perform the duties of this office and carry out the purpose of Sections 18 to 26 of this Act and shall hold office at the pleasure of the group. The salary of the director shall be determined by the group. The director shall, upon the advice and consent of the group, employ and fix the compensation of such personnel as may be necessary to effectuate the provisions of Sections 18 to 26 of this Act.

SECTION 21. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The board of directors shall:

(a) Approve, disapprove, amend, or modify the budget, guidelines, and implementation plan recommended by the executive director for the recycling cooperative program;

(b) Establish guidelines for counties in the use of fund money utilizing the framework provided by area solid waste management plans as established in KRS 224.43-340;

(c) Develop a formula for the distribution of fund money as authorized by subsection (2) of Section 26 of this Act;

(d) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out and implement its powers and duties and the operation of the group;

(e) Assist in the development and implementation of statewide public education programs for recycling and solid waste reduction;

(f) Promote the development of resource recovery research and the development of markets within the Commonwealth of Kentucky for recovered material;

(g) Monitor activities and progress achieved in solid waste management and, with the advice of the solid waste industry, make recommendations to the General Assembly on ways to address future trends and needs of litter, open dumps, and recycling. Recommendations shall be provided to the General Assembly by October 1 of each year, beginning October 1, 2001; and

(h) Develop and submit an annual report by October 1 of each year, beginning October 1, 2001, to the General Assembly on the activities of the group, the administration of fund moneys, and any recommendations that would improve the recycling cooperative program and marketing of recovered material.

(2) In all other matters, the board shall advise and make recommendations.

SECTION 22. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The group shall conduct and administer the recycling cooperative program with a goal of establishing sound recycling operations at a regional level. It shall be the duty of the group, its employees, and the members of the board to provide for the effective operation of the recycling cooperative program which insures efficient use of resources and improvement of regional recycling operations. The group, in pursuit of the attainment of the objectives and purposes of Sections 18 to 26 of this Act, may:

(a) Sue and be sued in its corporate name;

(b) Adopt a corporate seal and a symbol;

(c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

(d) Incur debt in its own name and enter into financing agreements with state agencies of the Commonwealth or with commercial banks;

(e) Receive and accept grants, contributions of money, property, labor, or other things of value from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation to be used to carry out the functions of the group;

(f) Acquire or incorporate existing recycling operations into the recycling cooperative program that will further the role of the group;

(g) Create a nonprofit corporation in accordance with the provisions of KRS 273.161 to 273.390 to act as the instrumentality and constituted authority of the group in the acquisition and financing of any recycling operation; and

(h) Establish affiliation or brokerage fees, and establish services at cost subject to approval by the board to be used to carry out the functions of the group.

(2) The group shall:

(a) Implement and carry out the recycling cooperative program in accordance with the provisions of Sections 18 to 26 of this Act and the administrative regulations promulgated by the board or group;

(b) Distribute money from the recycling cooperative fund as authorized by Section 26 of this Act;

(c) Submit quarterly and annual reports to the board containing financial statements that include, but are not limited to, disclosure of gross revenues, expenses, and net proceeds for the period;

(d) Keep accurate books, records, and accounts of all entities receiving payments from the recycling cooperative fund;

(e) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out Sections 18 to 26 of this Act;

(f) Develop a training program for participating local governments in the recycling cooperative program;

(g) Act as a state broker for regions seeking to sell recovered material by contracting with processors, secondary material manufacturers, or other brokers;

(h) Return to the participating local government its portion of money received from the sale of recovered material according to the quantity and type of recovered material and current market value; and

(i) Develop an economical transportation system for the recovered material to go to material recovery facilities or distribution centers and to market.

SECTION 23. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall:

(a) Supervise and administer the recycling cooperative program in accordance with the provisions of Sections 18 to 26 of this Act and the administrative regulations promulgated by the board or group;

(b) Establish a budget, guidelines, and implementation plan for the group;

(c) Employ and direct personnel as may be necessary to carry out the purposes of Sections 18 to 26 of this Act;

(d) Make available for inspection by the board or any member of the board, upon request, all books, records, files, and other information and documents of the director's office and to advise the board and recommend administrative regulations and other matters the director deems necessary and advisable to improve the operation and administration of the recycling cooperative program; and

(e) Attend meetings of the board or appoint a designee to attend on his or her behalf;

(2) The executive director, with the approval of the board, may amend or modify the budget for the proper operation of the group.

SECTION 24. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) All money received by the group from tipping fees according to Section 25 of this Act shall be deposited into a recycling cooperative account in the State Treasury known as the "Recycling Cooperative Fund." Moneys in the recycling cooperative account shall not lapse at the close of the state fiscal year.

(2) Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the recycling cooperative account, and the costs of the audit shall be considered an administrative cost

to be borne by the fund. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission, the Kentucky Recycling Cooperative Group, and the board.

SECTION 25. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Beginning January 1, 2001, every solid waste landfill shall have a tipping fee of one dollar and fifty cents ($1.50) per ton of waste disposed in addition to its regular tipping fee.

(2) Beginning January 1, 2001, operators of a solid waste landfill shall pay to the cabinet the tipping fee established in this section for each ton of waste disposed in a landfill in a manner and within time periods determined by the cabinet. The fee shall be accompanied by a report or return in a form that the cabinet may prescribe by administrative regulation.

(3) If a landfill operator fails to make a payment and file a return required by this section on or before the due date established by the cabinet, the cabinet may assess a penalty of ten percent (10%) of the amount due, plus an additional penalty of five percent (5%) of the amount due for each additional month payment is late.

(4) All payments collected by the cabinet under this section shall be paid into the State Treasury and credited to the recycling cooperative fund established in Section 26 of this Act.

SECTION 26. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A trust fund, which shall be known as the "Recycling Cooperative Fund," is hereby created in the State Treasury of the Commonwealth to be administered by the Kentucky Recycling Cooperative Group established in Section 19 of this Act. All payments collected under Section 25 of this Act shall be deposited in the recycling cooperative fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.

(2) Money in the fund shall be used as follows:

(a) Up to fifty percent (50%) for infrastructure development and equipment for regional distribution centers, materials recovery facilities, satellite processing facilities, and ongoing recycling programs to be distributed to participating local governments through a grant program administered by the group;

(b) Up to forty percent (40%) for solid waste and recycling activities, litter and illegal dump cleanup, and the operation of universal solid waste collection, including the payment of uncollected solid waste pick-up fees, to be distributed to participating local governments through a formula based on population and total road miles to be determined by the board;

(c) Up to three percent (3%) of the fund shall be used for administrative costs by the Kentucky Recycling Cooperative Group and Revenue Cabinet;

(d) Up to five percent (5%) to be used as matching fund money for developing and implementing a recycling educational curriculum in elementary and secondary schools by the Kentucky Environmental Education Council; and

(e) Up to two percent (2%) to be used as matching fund money for the Adopt-a-Highway Program and public service announcements by the Department of Transportation.

(3) Unexpended money from subsection (2) of this section remaining in the fund at the end of the fiscal year shall revert to the recycling cooperative fund and shall be authorized and administered by the group for the operation of the recycling cooperative program, county solid waste management programs, and other solid waste activities as determined by the group.

(4) Each participating local government shall receive its share of the money from the sale of recovered material according to Section 22 of this Act. This money shall not be part of the recycling cooperative fund, but shall be maintained and accounted for by the group, and it shall be the executive director's responsibility to insure that each participating local government receives accurate payments from the sale of recovered material.

SECTION 27. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) A solid waste hauling operation that is subject to the tipping fee established in Section 25 of this Act and that is obligated by a contract or agreement that precludes recovery of the tipping fee shall be entitled to a nonrefundable credit against the Kentucky income tax liability established under this chapter. For any taxable year, the credit shall be in an amount equal to the tipping fee paid according to Section 25 of this Act that is not recoverable.

(2) The contract or agreement identified in subsection (1) of this section shall have been in existence at least three (3) months prior to the effective date of this Act, and shall preclude adjustments to the contract or agreement that would allow the tipping fee established in Section 25 of this Act to be added to the contract price.

(3) Any credit not used in the tax year in which it first becomes available may be carried forward to the next succeeding five (5) years until the credit has been fully used.

(4) A solid waste hauler claiming the credit under this section must submit proof of the contract or agreement as required

by regulations issued by the Revenue Cabinet prior to the claiming of the credit.

Section 28. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

(h) The low income credit permitted by KRS 141.066;~~[and]~~

(i) The household and dependent care credit permitted by KRS 141.067***; and***

(j) The tipping fee credit permitted by Section 27 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) ***The tipping fee credit permitted by Section 27 of this Act;***

(g) The enterprise zone credit permitted by KRS 154.45-090; and

(h)~~[(g)]~~ The tax credit for cash contributions to investment funds permitted by KRS 154.20-263.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040."

Floor Amendment No. 4 Title to **SB 290**, by Representative Anderson:

On page 1, title line, by changing the title to read "AN ACT relating to environmental conservation."

Floor Amendment No. 2 to the House Committee Substitute No. 2 to **SB 77**, by Representative Moberly:

On page 4, line 5, by deleting "***mathematics***";

On page 45, line 24, after "select," by deleting "***employ,***";

On page 45, line 25 after "board;" by deleting all language through the end of line 26;

On page 46, line 16, after "***(q)***" by deleting "***Solicit***" and inserting in lieu thereof "***Promote***";

On page 46, line 16, after "***nontraditional***" by inserting "***or alternative administrator or***"

On page 46, line 18, after "***contractors,***" by inserting "***Department of Education,***";

On page 46, line 20 by deleting "***and***";

On page 46, line 21, after "***(r)***" by inserting "***The board may approve a university's request for an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Teacher Internship Program, notwithstanding provisions of KRS 161.030. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful***

completion of the program, the internship requirements, and all assessments required by the board.

(s) ***The board may approve a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as a assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board; and***

(t).".

Floor Amendment No. 6 to **SB 163**, by Representative A. Arnold:

On Page 3, line 2, by deleting, "***, or increased,***"; and

On Page 3, after line 4, before the period, by inserting, "***, additionally, cities and counties shall not increase an occupational license fee or tax during this period***"; and

On Page 6, line 22, by deleting, "***for the first***"; and

On Page 6, line 23, by deleting, "***time***"; and

Continuing on that same line, by deleting, "***after***", and inserting in lieu thereof, "***before***"; and

Continuing on that same line, by deleting, "***, or is increased effective on or after July 1, 2000***"; and

On Page 6, line 25, before the period, by inserting, "***, additionally, cities and counties shall not increase an insurance premium fee or tax during this period***".

Announcements

The following meetings were announced:

Judiciary, March 23, 2000, before adjournment

Local Government, March 23, 2000, upon adjournment, Chamber

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 24, 2000.

The motion that the House adjourn until 10:00 a.m., March 24, 2000, was adopted by voice vote.

MARCH 24, 2000

FIFTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Edward Randall of Holy Angels Church and Saint George Church, Jenkins, KY.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Walton.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 5, HB 15, HB 52, HB 86, HB 254, HB 282, HB 322, HB 347, HB 398, HB 452, HB 623, HB 631, HB 722, HB 749, HB 805, HB 957, HCR 36, HJR 101,** and **HCR 108** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:05 a.m.)

Senate Message

Announcing passage of **SB 70, HB 25, HB 44, HB 321, HB 381, HB 386, HB 474, HB 596, HB 599, HB 618, HB 620, HB 640, HB 696, HB 719, HB 733, HB 758, HB 811, HCR 7,** and **HCR 20**. (Time: 10:10 a.m.)

Message in regard to **HB 465**: The Senate has passed **HB 465** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 693**: The Senate has passed **HB 693** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 806**: The Senate has passed **HB 806** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HCR 18**: The Senate has passed **HCR 18** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 23, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 179, by Representatives McKee and Cave: A RESOLUTION honoring Legislative Experience 2000, an academic internship program sponsored by the Association of Independent Kentucky Colleges and Universities.

HR 180, by Representative Hoffman: A RESOLUTION expressing support for the construction of a National World War II Memorial in Washington D.C. to honor United States and Kentucky citizens who served in the Armed Forces and those who died during World War II.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 177, HR 178**

Report of Committees

The Committee on Judiciary reported **SB 119** and **SB 209** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 119, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-030 is amended to read as follows:

(1) If the accident causing injury occurs in this Commonwealth every person suffering loss from injury arising out of maintenance or use of a motor vehicle has a right to basic reparation benefits, unless he has rejected the limitation upon his tort rights as provided in KRS 304.39-060(4).

(2) If the accident causing injury occurs outside this Commonwealth but within the United States, its territories and possessions, or Canada, the following persons and their survivors suffering loss from injury arising out of maintenance or use of a motor vehicle have a right to basic reparation benefits:

(a) Basic reparation insureds;~~[and]~~

(b) The driver and other occupants of a secured vehicle who have not rejected the limitation upon their tort rights, other than:

1. A vehicle***, except for a vehicle as provided in paragraph (c) of this subsection,*** which is regularly used in the course of the business of transporting persons or property and which is one ***(1)*** of five (5) or more vehicles under common ownership; or

2. A vehicle owned by an obligated government other than this Commonwealth, its political subdivisions, municipal corporations, or public agencies***; and***

(c) The driver and other occupants of a bus, who have not rejected the limitation upon their tort rights, are Kentucky residents, and boarded a bus in Kentucky, if the bus is:

1. A secured vehicle;

2. Registered in Kentucky;

3. Regularly used in the course of the business of transporting persons or property; and

4. One (1) of five (5) or more vehicles under common ownership.

SB 209, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.125 is amended to read as follows:

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(3) Cruelty to animals in the first degree is a Class D felony.

(4) In addition to any other penalty assessed, the court may, for a first offense, order psychological counseling for the defendant on such terms as the court deems appropriate. For a second or subsequent offense, the court shall order psychological counseling for the defendant. The cost of counseling shall be borne by the defendant.

Section 2. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit, (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit) mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal.

(2) Nothing in this section shall apply to the killing of animals:
 (a) Pursuant to a license to hunt, fish, or trap;
 (b) Incident to the processing as food or for other commercial purposes;
 (c) For humane purposes;
 (d) For any other purpose authorized by law.

(3) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

(5) In addition to any other penalty assessed, the court may, for a first offense, order psychological counseling for the defendant on such terms as the court deems appropriate. For a second or subsequent offense, the court shall order psychological counseling for the defendant. The cost of counseling shall be borne by the defendant.

The Committee on Local Government reported **SB 220, SB 332, SB 347,** with House Committee Amendment attached thereto, and **SB 350** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 220, AN ACT relating to the hours of work of police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.497 is amended to read as follows:

(1) In all cities***, including urban-county governments and charter county governments***[~~of the third class~~], except those in which, by ordinance, the patrolmen are employed or paid by the day, the members of the police department shall not be required to work more than eight (8) hours per day, for five (5) days each week, ***or ten (10) hours per day, for four (4) days per week,*** except in the event of an emergency. Each member of the police department shall have an annual leave of fifteen (15) working days with full pay.

(2) The salary of the members of the police department shall not be reduced by reason of the enactment of this section.

Section 2. The following KRS section is repealed:

95.495 Hours of work and annual leave for members of police department in cities of second class or urban-county governments.

SB 332, AN ACT relating to the confinement of prisoners in county jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) A prisoner in a county jail shall be required by the sentencing court to reimburse the county for expenses incurred by reason of the prisoner's confinement as set out in this section, except for good cause shown.

(2) (a) The jailer may adopt, with the approval of the county's governing body, a prisoner fee and expense reimbursement policy, which may include, but not be limited to, the following:
 1. An administrative processing or booking fee;
 2. A per diem for room and board of not more than fifty dollars ($50) per day or the actual per diem cost, whichever is less, for the entire period of time the prisoner is confined to the jail;
 3. Actual charges for medical and dental treatment; and
 4. Reimbursement for county property damaged or any injury caused by the prisoner while confined to the jail.

 (b) Rates charged may be adjusted in accordance with the fee and expense reimbursement policy based upon the ability of the prisoner confined to the jail to pay, giving consideration to any legal obligation of the prisoner to support a spouse, minor children, or other dependents. The prisoner's interest in any jointly owned property and the income, assets, earnings, or other property owned by the prisoner's spouse or family shall not be used to determine a prisoner's ability to pay.

(3) The jailer or his designee may bill and attempt to collect any amount owed which remains unpaid. The governing body of the county may, upon the advice of the jailer, contract with one (1) or more public agencies or private vendors to perform this billing and collection. Within twelve (12) months after the date of the prisoner's release from confinement, the county attorney, jailer, or the jailer's designee, may file a civil action to seek reimbursement from that prisoner for any amount owed which remains unpaid.

(4) Any fees or reimbursement received under this section shall be forwarded to the county treasurer for placement in the jail's budget.

(5) The governing body of the county may require a prisoner who is confined in the county jail to pay a reasonable fee, not exceeding actual cost, for any medical treatment or service received by the prisoner. However, no prisoner confined in the jail shall be denied any necessary medical care because of inability to pay.

(6) Payment of any required fees may be automatically deducted from the prisoner's property or canteen account. If the prisoner has no funds in his account, a deduction may be made creating a negative balance. If funds become available or if the prisoner reenters the jail at a later date, the fees may be deducted from the prisoner's property or canteen account.

(7) Prior to the prisoner's release, the jailer or his designee may work with the confined prisoner to create a reimbursement plan to be implemented upon the prisoner's release. At the end of the prisoner's incarceration, the prisoner shall be presented with a billing statement produced by the jailer or designee. After the prisoner's release, the jailer or his designee may, after negotiation with the prisoner, release the prisoner from all or part of the prisoner's repayment obligation if the jailer believes that the prisoner will be unable to pay the full amount due.

(8) No per diem shall be charged to any prisoner who is required to pay a work release fee pursuant to KRS 439.179, a prisoner that has been ordered to pay a reimbursement fee by the court pursuant to KRS 534.045, or that the Department of Corrections is financially responsible for housing.

(9) No medical reimbursement, except that provided for in KRS 441.045, shall be charged to any prisoner that the Department of Corrections is financially responsible for housing.

SB 347, AN ACT relating to the registration of motor vehicles in counties required to have a vehicle emission control program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Vehicle Regulation shall provide and receive information on the emissions test status of vehicles registered in the Commonwealth of Kentucky. The Department of Vehicle Regulation shall provide appropriate emissions test and compliance status to the Department of Information Systems for inclusion in the AVIS database.

(2) Upon notification to the Department of Vehicle Regulation from a county air pollution control district or the Natural Resources and Environmental Protection Cabinet of expiration of a vehicle emissions compliance certificate, the Department of Vehicle Regulation shall immediately notify the person who owns the vehicle that unless evidence of compliance is received within thirty (30) days, the department shall revoke the registration of the motor vehicle until:

(a) The person presents an emissions certificate to the county clerk and pays the reinstatement fee required under Section 2 of this Act; or

(b) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that failure to obtain a current emissions certificate is the result of the inoperable condition of the motor vehicle.

(3) The provisions of Sections 1, 2, 3, and 4 of this Act shall not prevent a county air pollution district or the Natural Resources and Environmental Protection Cabinet from seeking the enforcement or operation of any other statute or ordinance that ensures the compliance of motor vehicles in the Commonwealth under KRS 224.20-710 to 224.20-765.

Section 2. KRS 186.180 is amended to read as follows:

(1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.

(2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars ($3) for each plate and a fee of three dollars ($3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or

plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars ($5) of which the clerk shall be entitled to three dollars ($3) and the cabinet shall be entitled to two dollars ($2).

(4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of***:***

(a) Insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet***; or***

(b) A valid compliance or exemption certificate in compliance with KRS 224.20-720.

(5) The owner ***of a motor vehicle that has the vehicle's registration revoked under Section 1 of this Act*** shall pay to the clerk a fee of twenty dollars ($20), which shall be equally divided between the county clerk and the cabinet.

Section 3. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(2), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180***(1) to (4)(a)***, 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.

(3) A person who violates the provisions of KRS 186.450(4) or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.

(4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have ***it***[~~same~~] on his or her person or misplaced or lost ***it***[~~same~~], the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

Section 4. KRS 224.20-765 is amended to read as follows:

(1) ***A person shall not be guilty of a criminal offense for failure to obtain a valid compliance or exemption certificate.***

(2) A person convicted of knowingly violating any ***statutory*** provision of***, or administrative regulation promulgated under KRS Chapter 13A to implement,*** KRS 224.20-710 to 224.20-765***, other than KRS 224.20-720,***[~~ or any administrative regulation adopted pursuant to KRS 224.20-710 to 224.20-765~~] shall be guilty of a Class B misdemeanor.

(3)[~~(2)~~]A person who is convicted of knowingly demanding or collecting a fee for the inspection of a vehicle other than the fees established pursuant to KRS 224.20-710 to 224.20-765 shall be guilty of a Class A misdemeanor.

(4)[~~(3)~~]A person convicted of knowingly making or issuing any imitation of a compliance certificate or exemption certificate shall be guilty of a Class D felony.

(5)[~~(4)~~]A person convicted of willful improper issuance or use of an inspection certificate shall be guilty of a Class A misdemeanor.

The House Committee Amendment No. 1 to **SB 347** is as follows:

On page 1, line 20, delete "***Sections 1, 2, 3, and 4***" and insert in lieu thereof "***Sections 1, 2, 3, 4, and 5***"; and

On page 1, line 20, after the word "***prevent***" insert "***the Transportation Cabinet,***"; and

On page 1, line 21, after the word "***district***" insert a comma "***,***"; and

On page 1, line 24, delete line 24 in its entirety and insert in lieu thereof "***under KRS Chapter 186, KRS 224.20-710 to 224.20-765, or KRS Chapter 77.***"; and

On page 1, after line 24, insert a new subsection to read as follows:

"***(4) The provisions of Sections 1, 2, 3, 4, and 5 of this Act shall apply to vehicles that are registered in a county authorized under KRS 224.20-710 to 224.20-765 or KRS Chapter 77 to conduct vehicle emissions tests.***"; and

On page 3, line 25, before the period "." insert "***or issued under the authority of an air pollution control district under Section 4 of this Act***"; and

On page 5, between lines 12 and 13, by adding a new Section 4 to read as follows:

"Section 4. KRS 224.20-760 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section,*** the provisions of KRS 224.20-710 to 224.20-765 shall not detract from the authority provided air pollution control districts in KRS Chapters 77 and 224.

(2) The authority in KRS 224.20-720 is provided to air pollution control districts provided:

  (a) The air pollution control district may function and exercise its powers pursuant to resolution or ordinance as provided in ***this section, Sections 1, 2, 3, and 5 of this Act, and*** KRS Chapter 77; and

  (b) The air pollution control district has been granted concurrent jurisdiction by the cabinet pursuant to KRS 224.20-130.

(3) Actions taken by an air pollution control district for violations of KRS 224.20-710 to 224.20-765 shall be enforced in accordance with the provisions of KRS 224.20-130(5)."; and

On page 5, line 13, renumber "Section 4" as "Section 5".

SB 350, AN ACT relating to city police and fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.360 is amended to read as follows:

(1) No employee in the classified service of a city of the second or third class shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude, or, in a city of the third class, violation of any rule adopted by the city legislative body or civil service commission.

(2) Any person may prefer charges in writing against any employee by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom he ***or she*** believes guilty of conduct justifying his ***or her*** removal. Upon the filing of charges the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employee with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employee. The day on which the charges are served on the accused employee shall count as one (1) of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.

(3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify

concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The accused employee shall have the right to have subpoenaed any witnesses he ***or she*** may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employee without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents ($0.50) to the city clerk by the employee. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or the appointing authority has probable cause to believe an employee has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employee from duty or from both pay and duty pending trial and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employee found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employee's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended or dismissed except as provided in this section.

(7) (a) Any of the following offices, positions, and places of employment, in the police and fire departments of a city of the second or third class, may be excluded from the classified service:

1. Chief of police;

2. Assistant chief of police;

3. Chief of firefighters; and

4. Assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his or her appointment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Any city of the second or third class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission. Any classified employee in the police or fire department, who accepts an appointment and qualifies as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his appointment.

Calendar

SB 75, SB 197, SB 255, HR 156, SB 23, SB 115, SB 216, SB 225, SB 372, SB 394, SCR 111, SCR 113, SB 379, SB 49, SB 288, SB 323, SJR 114, SJR 107, and **SB 290** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Cornett moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Cornett moved the adoption of the following **Legislative Citation No. 141**.

The House of Representatives of the Commonwealth of Kentucky hereby honors Father Edward Randall upon the occasion of his Golden Jubilee, celebrating a half-century of devoted priesthood. Ordained in Washington, D.C. in 1950, Father Randall came to Letcher County, Kentucky, in 1980 to offer his faithful services to the parishes of both St. George Catholic Church in Jenkins and Holy Angels Catholic Church in McRoberts. This remarkable humanitarian and talented artist and sculptor has contributed richly to these communities in many ways, including utilizing his artistic skill to add to the aesthetic beauty of both churches, organizing free art classes open to the public and passionately advocating on behalf of those less fortunate, particularly the elderly and disabled. Father Randall has continually gone beyond the call of duty to help those in need, often paying rent and utilities to prevent the homelessness of many in his community and, in one of many acts of kindness and generosity, arranging, paying for and performing the funeral of an elderly man with no family whom he had met while visiting a local hospital. Having met and become close friends with Mother Teresa in 1982, Father Randall assisted her in establishing an order of the Sisters of Charity in Jenkins, with which he has continued to work closely, and traveled to Albania to aid Mother

Teresa by doing homilies in English for a Sisters of Charity house that she was establishing there. Inasmuch as Father Edward Randall has labored with great diligence and enthusiasm to offer spiritual guidance to all those whose paths he crosses as well as to creatively impact his community in a positive and constructive way, the members of this august body are honored to join Representative Howard Cornett in celebrating this loyal servant of God and in extending to him best wishes for good fortune as he continues to be a kind and compassionate presence in all those whose lives are touched by his. Done in Frankfort, this twenty-fourth day of March, in the year two thousand.

Legislative Citation No. 141 was adopted without objection.

Representative Miller moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Miller moved the adoption of the following **HR 174**:

HR 174, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dawson Orman.

With deepest respect and admiration, we pay homage and tribute to Dawson Orman, and we pause in silent reverence for his soul.

WHEREAS, Dawson Orman was born on October 5, 1927, a native of Springfield, Tennessee, and longtime resident of Louisville, Kentucky, and he traversed these earthly bounds on April 27, 1997; and

WHEREAS, Dawson Orman was the loving son of the late Walter and Margaret Orman; he was the devoted husband of Dorothy Orman; he was the loving father of four sons, Dee, David, Dan and Doug Orman, and two daughters, Donna McCabe and Debbie Sorrels; and he was the proud grandfather of eleven grandchildren, Shannon Dick, Kevin McCabe, Kelly McCabe, Gabriel Orman, Logan Orman, Molly Orman, Brandon Sorrels, Clayton Orman, Casey Orman, Kelsie Orman and Madison Orman; and

WHEREAS, Dawson Orman graduated from Louisville Male High School in 1945; he completed undergraduate work at the University of Louisville and graduate work at the University of Kentucky; and his advanced graduate studies included work from the University of Louisville and Indiana University; and

WHEREAS, Dawson Orman worked in education for more than thirty years, spending nine years as principal of the only school in Mt. Sterling, Kentucky, which housed kindergarten through high school; and he served twenty-two years in the Jefferson County Public Schools system where he was a teacher, football coach, assistant principal, and principal of several district schools, including Shawnee Junior High School, Highland Junior High School, and Atherton High School; and

WHEREAS, Dawson Orman also held the positions of assistant superintendent and deputy superintendent of the Jefferson County Public Schools; he retired from his deputy superintendent position in 1984, and he assumed the role of executive director of the Kentucky Association of Secondary School Principals from 1984 to 1997; and while many people believed they were the beneficiaries of his involvement in enhancing the leadership of Kentucky's principals, he believed that his participation in their educational lives allowed him to grow and stay current with the profession to which he was so committed; and

WHEREAS, Dawson Orman committed his life to serving others, and he brought light and inspiration to all the lives he touched; he was held in high esteem by the Jefferson County community, winning the trust and admiration of Louisvillians, west and east, and black and white; he demonstrated an unwavering dedication to the children of Jefferson County, and he served as an inspiration to his peers through his endless efforts, tireless commitment to the causes and beliefs he steadfastly supported, and astute leadership in the spearheading of meaningful projects for the betterment of education and children; and

WHEREAS, because of his contributions to the Jefferson County Public Schools through the years, and his passion for children and their education, the Dawson Orman Education Center was named in his honor on October 5, 1999; and in recognition of his contributions to the outstanding high school athletic tradition of this fine Commonwealth, playing as a multi-sport star at Male High School, serving as coach and administrator for the Mt. Sterling School system, and making tremendous contributions to the Jefferson County School system, Dawson Orman was inducted into the Dawahare's/Kentucky High School Athletic Association Hall of Fame on March 14, 2000; and

WHEREAS, the passing of Dawson Orman has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement upon the passing of Dawson Orman, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. The passion, dedication, intelligence and social consciousness Dawson Orman brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns, it does so in loving memory and honor of Dawson Orman.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Dorothy Orman, 3624 Windward Way, Louisville, Kentucky 40220.

There being no objection **HR 174** was adopted.

Representative Baugh moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 143**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory and honor of Williams "Doc" Gower and expresses deepest sympathy to his loving wife, Joyce Morris Gower; his beloved children, Lillian Winn, Bill Gower and Ed Gower; his devoted siblings, Katherine Williams, Louise Elliston, Earl Gower and Jimmy Gower; and his cherished step-children, Kelly Hamilton, Elizabeth Blandford and Stacy Kammerman. The son of the late James Martin Gower and Lillian Franklin Gower, he was preceded in death by his first wife, Marguerite Gower. An Army veteran, he worked as a pharmacist at Gower Drug Store, was a member of the Lewisburg Methodist Church, a member of the Lions Club and an officer of the Lewisburg Banking Company. Williams "Doc" Gower is honored this day as a most remarkable and generous citizen who will long be remembered by all whose lives were touched by presence. The members of this august body do solemnly join Representative Sheldon Baugh in extending sincere and heartfelt condolences to his loving family and friends. Done in Frankfort, this twenty-fourth day of March, in the year two thousand.

Legislative Citation No. 143 was adopted without objection.

Representative Buckingham moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Buckingham moved the adoption of the following **Legislative Citation No. 144**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor and memory of William David "Bill" Hamrick, Jr. and expresses sincere gratitude that the golf course at Kenlake State Park has been named in his honor. Born in Paris, Kentucky, in 1918, the son of William D. and Earlene Farmer Hamrick, Bill Hamrick grew up in Murray Kentucky. After graduation from Murray High School, he served as a Public Safety Officer and as a Fire Inspector for the Tennessee Valley Authority prior to being appointed by Governor Lawrence Wetherby as the first superintendent of Kenlake State Park. Assisting in the design of the Lodge and Boat Dock, he also planned the layout of the golf course. Bill Hamrick hired many west Kentuckians and was, ultimately, a moving force in the formation of Kenlake State Park. He served at Kenlake until 1954, and pursued a career in the private sector with Bill's Standard Station, Murray Advertising Agency and Bill's Full Line Vending. Devoted to his family, he and his wife, Cordie Lee Wall Hamrick, were the loving parents of two children, Sandra Lee Ferony and Steven Wall Hamrick, and the cherished grandparents of seven grandchildren and four great-grandchildren. The members of this most august body do earnestly join Representative Robert "Buddy" Buckingham and Representative J. R. Gray in paying tribute to this astute and most talented gentleman, William David "Bill" Hamrick, Jr., for his vast contributions to the citizens of this Commonwealth, by adjourning the House of Representatives this day in his memory and honor. Done in Frankfort, this twenty-fourth day of March, in the year two thousand.

Legislative Citation No. 144 was adopted without objection.

Representative Draud moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Draud moved the adoption of the following **Legislative Citation No. 142**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Beechwood High School Tigers Football Team for the extraordinary exhibition of courage and determination that resulted in this phenomenal group of athletes capturing the KHSAA Class A Football Championship for the seventh time in nine years, while finishing the season with a record of 13-2 overall, 7-1 in the region and 4-1 in the district. Whereas, this momentous accomplishment is the result of the dedication, ability and enthusiastic, winning attitude demonstrated by all who contributed to the success of this remarkable team; and whereas, these attitudes embody the essence of sportsmanship and team spirit associated with high school athletics; therefore, this prestigious body is pleased to join with Representative Jon E. Draud in extending sincere congratulations to the Beechwood High School Tigers Football Team for continuing to bring great honor and esteem to the school, the community and this great Commonwealth. Done in Frankfort, this twenty-fourth day of March, in the year two thousand.

Legislative Citation No. 142 was adopted without objection.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 68, SB 86, SB 87, SB 101, SB 114, SB 169, SB 192, SB 206, SB 257, SB 330, SB 294, SB 339, SB 341,** and **SJR 69** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:55 a.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office, Committee on Judiciary meeting, Committee on State Government meeting, and Committee on Health and Welfare meeting. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

HB 5, HB 15, HB 52, HB 86, HB 254, HB 282, HB 322, HB 347, HB 398, HB 452, HB 623, HB 631, HB 722, HB 749, HB 805, HB 957, HCR 36, HJR 101, and **HCR 108** delivered to the Senate and signed by the President. Delivered to the Governor on March 24, 2000, at 10:33 a.m.

Representative Stumbo moved that the rules be suspended for Committee on Rules, Committee on State Government, Committee on Judiciary, and Committee on Health and Welfare Reports. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 134, SB 248, SB 315, SB 42, SB 263, SB 316, SCR 4, SB 227, SB 23, SB 75, SB 115, SB 197, SB 216, SB 225, SB 288, SB 323, SB 372, SB 379,** and **SCR 113** have been posted for passage in the Orders of the Day for March 27, 2000.

The Committee on Judiciary reported **SB 314,** with House Committee Substitute attached thereto, and **SB 408** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 314, AN ACT relating to wrongful death actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death ***and loss of decedent's enjoyment of life*** from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased.

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

The House Committee Substitute No. 1 to **SB 314** is as follows:

SB 314, AN ACT relating to wrongful death actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death ***and loss of decedent's enjoyment of life*** from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased. ***As used in this section, the word "person" includes an unborn child from fertilization onward, without regard to age, health, or condition of dependency.***

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

  (a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

  (b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

  (c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

  (d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

  (e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

Section 2. KRS 411.135 is amended to read as follows:

In a wrongful death action in which the decedent was ***either an unborn child from fertilization onward, without regard to age, health, or condition of dependency, or*** a minor child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority, in addition to all other elements of the damage usually recoverable in a wrongful death action.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall apply to acts of physicians that cause the death of an unborn child if those acts were committed:

  (a) During any abortion to which the woman has consented;

  (b) Incident to an in vitro fertilization procedure; or

  (c) As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the physician exercised that degree of care and skill which an ordinarily careful, skilled, and prudent physician would exercise under the same or similar circumstances.

(2) Nothing in this chapter shall apply to any acts of a pregnant woman that cause the death of her unborn child.

(3) As used in this section, "abortion" has the same meaning as in KRS 311.720.

SB 408, AN ACT relating to the judicial branch.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.030 is amended to read as follows:

The state is divided into judicial districts, each to be composed of the following counties:

(1) First Judicial District. Fulton and Hickman.

(2) Second Judicial District. McCracken.

(3) Third Judicial District. Christian.

(4) Fourth Judicial District. Hopkins.

(5) Fifth Judicial District. Crittenden, Union and Webster.

(6) Sixth Judicial District. Daviess.

(7) Seventh Judicial District. Logan and Todd.
(8) Eighth Judicial District. Warren.
(9) Ninth Judicial District. Hardin.
(10) Tenth Judicial District. Hart and Larue.
(11) Eleventh Judicial District. Green, Marion, Taylor and Washington.
(12) Twelfth Judicial District. Henry, Oldham and Trimble.
(13) Thirteenth Judicial District. Garrard, Jessamine and Lincoln.
(14) Fourteenth Judicial District. Bourbon, Scott and Woodford.
(15) Fifteenth Judicial District. Carroll, Grant and Owen.
(16) Sixteenth Judicial District. Kenton.
(17) Seventeenth Judicial District. Campbell.
(18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth Judicial District. Bracken, Fleming and Mason.
(20) Twentieth Judicial District. Greenup and Lewis.
(21) Twenty-first Judicial District. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second Judicial District. Fayette.
(23) Twenty-third Judicial District. Estill, Lee and Owsley.
(24) Twenty-fourth Judicial District. Lawrence, Johnson and Martin.
(25) Twenty-fifth Judicial District. Clark and Madison.
(26) Twenty-sixth Judicial District. Harlan.
(27) Twenty-seventh Judicial District. Knox and Laurel.
(28) Twenty-eighth Judicial District. Pulaski and Rockcastle.
(29) Twenty-ninth Judicial District. Adair ***and***~~[,]~~ Casey~~[, Cumberland and Monroe]~~.
(30) Thirtieth Judicial District. Jefferson.
(31) Thirty-first Judicial District. Floyd.
(32) Thirty-second Judicial District. Boyd.
(33) Thirty-third Judicial District. Perry.
(34) Thirty-fourth Judicial District. Whitley and McCreary.
(35) Thirty-fifth Judicial District. Pike.
(36) Thirty-sixth Judicial District. Magoffin and Knott.
(37) Thirty-seventh Judicial District. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial District. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial District. Clinton, Russell and Wayne.
(41) Forty-first Judicial District. Clay, Jackson and Leslie.
(42) Forty-second Judicial District. Calloway.
(43) Forty-third Judicial District. Barren and Metcalfe.
(44) Forty-fourth Judicial District. Bell.
(45) Forty-fifth Judicial District. Muhlenberg and McLean.
(46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial District. Letcher.
(48) Forty-eighth Judicial District. Franklin.
(49) Forty-ninth Judicial District. Allen and Simpson.
(50) Fiftieth Judicial District. Boyle and Mercer.
(51) Fifty-first Judicial District. Henderson.
(52) Fifty-second Judicial District. Graves.
(53) Fifty-third Judicial District. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial District. Boone and Gallatin.

(55) Fifty-fifth Judicial District. Bullitt.
(56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon and Trigg.
(57) Fifty-seventh Judicial District. Nelson.
(58) Fifty-eighth Judicial District. Marshall.
(59) Fifty-ninth Judicial District. Ballard and Carlisle.
(60) Sixtieth Judicial District. Cumberland and Monroe.

Section 2. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1) Third Judicial District.
(2) Fourth Judicial District.
(3) Ninth Judicial District.
(4) Eleventh Judicial District.
(5) Twelfth Judicial District.
(6) Thirteenth Judicial District.
(7) Fourteenth Judicial District.
(8) Fifteenth Judicial District.
(9) Eighteenth Judicial District.
(10) Twenty-first Judicial District.
(11) Twenty-fourth Judicial District.
(12) Twenty-seventh Judicial District.
(13) Twenty-eighth Judicial District.
(14)[~~ Twenty-ninth Judicial District.~~
~~(15)~~] Thirty-first Judicial District.
(15)[~~(16)~~] Thirty-second Judicial District.
(16)[~~(17)~~] Thirty-fourth Judicial District.
(17)[~~(18)~~] Thirty-fifth Judicial District.
(18)[~~(19)~~] Thirty-eighth Judicial District.
(19)[~~(20)~~] Fortieth Judicial District.
20)[~~(21)~~] Forty-first Judicial District.
(21)[~~(22)~~] Forty-third Judicial District.
(22)[~~(23)~~] Forty-sixth Judicial District.
(23)[~~(24)~~] Forty-eighth Judicial District.
(24)[~~(25)~~] Fiftieth Judicial District.
(25)[~~(26)~~] Fifty-first Judicial District.
(26)[~~(27)~~] Fifty-third Judicial District.
(27)[~~(28)~~] Fifty-fourth Judicial District.
(28)[~~(29)~~] Fifty-fifth Judicial District.
(29)[~~(30)~~] Fifty-sixth Judicial District.

Section 3. (1) The present District Judge who resides in the Twenty-ninth Judicial District as amended by Section 1 of this Act shall remain the District Judge for the Twenty-ninth Judicial District.

(2) The present District Judge of the former Twenty-ninth Judicial District who resides in the Sixtieth Judicial District as created by Section 1 of this Act shall become the District Judge for the Sixtieth Judicial District.

(3) No new vacancy shall be created by this Act. Each present District Judge shall serve the district, as amended or created by this Act, in which he resides for the remainder of his present elected term.

The Committee on State Government reported **SB 349,** with House Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 349, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 61A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 27 of this Act, unless the context requires otherwise:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of Sections 1 to 27 of this Act, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether that body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in Section 14 of this Act;

(5) "Employee" means a person hired on or after July 1, 2001, who is a member, officer, or employee of the General Assembly or a regular full-time, appointed or elective officer or employee of a participating department. In case of any doubt, the board shall determine if a person is an employee within the meaning of Section 1 to 27 of this Act;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system under Section 3 of this Act;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee hired on or after July 1, 2001, who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means current service;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 2001, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month that he occupies the position during a legislative biennium;

(11) "Contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account as provided in Section 7 of this Act and any other amounts the member shall have contributed thereto;

(12) "Creditable compensation" means all salary, wages, tips to the extent that the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, and other compensation," including employee contributions picked up as provided in Section 6 of this Act, except that for members of the General Assembly, it means an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum, which shall include per diem and expense payments authorized by KRS Chapters 6 and 6A. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. A lump-sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. "Creditable compensation" also includes amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(13) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years in which he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire under Section 12 of this Act, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(14) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12)

month period immediately preceding the member's effective retirement date as provided in Section 6 of this Act. In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer, and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(15) "Retirement allowance" means the retirement payments to which a member is entitled;

(16) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by Section 19 of this Act shall be computed by adding ten (10) years to the age of the member. No disability retirement shall be less than the same option computed under early retirement;

(17) "Normal retirement date" means the sixty-fifth birthday of a member;

(18) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(19) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(20) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

- *(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;*
- *(b) Emergency positions, which are positions which do not exceed thirty (30) working days and are nonrenewable;*
- *(c) Temporary positions, which are positions of employment with a participating department for a period of time not to exceed nine (9) months;*
- *(d) Part-time positions, which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and*
- *(e) Interim positions, which are positions established for a one (1) time or recurring need not to exceed nine (9) months;*

(21) "Delayed contribution payment" means an amount paid by an employee for current service. The amount shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made, times the actuarial factor, times the number of years of service being purchased. The payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(22) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(23) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(24) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or Section 27 of this Act to receive any available benefits in the event of the member's death. As used in Section 26 of this Act, "beneficiary" does not include an estate, trust, or trustee;

(25) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance;

(26) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(27) "Increment" means twelve (12) months of service credit that are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(28) "Person" means a natural person;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in

accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(31) "Objective medical evidence" means medical histories, reports of examinations or treatments; medical signs that are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs that are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings that are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;

(33) "Month" means a calendar month;

(34) "Hazardous duty position" means a position that meets the requirements of Section 5 of this Act; and

(35) "Nonhazardous position" means a position that does not meet the requirements of Section 5 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

The following statutes apply to Sections 1 to 27 of this Act in the same manner and subject to the same limitations and requirements as they apply to KRS 61.510 to 61.705:

(1) KRS 61.515 Retirement system established -- Fund created;

(2) KRS 61.520 Participation by executive order -- Authority for order;

(3) KRS 61.526 Members to file statements of facts at retirement office -- Procedure for verification;

(4) KRS 61.530 Nonelection of membership -- Penalty;

(5) KRS 61.535 Cessation of membership -- Conditions;

(6) KRS 61.540 Statement of member and employer -- Summary plan description;

(7) KRS 61.541 Creditable compensation of fee officers -- How determined -- Recalculation;

(8) KRS 61.542 Designation of beneficiaries -- Rights -- Effects of change in certain conditions;

(9) KRS 61.543 Deduction or pick up of employee contributions -- Service credit -- Educational leave;

(10) KRS 61.545 Service credit determination -- Purchase of service credit for fractional year's service -- Choice of system -- Division of service credit;

(11) KRS 61.546 Sick leave credit for employees;

(12) KRS 61.547 Transfer of annual and sick leave balances by employees;

(13) KRS 61.550 Cessation of membership -- Loss of benefits;

(14) KRS 61.567 Employer's contribution by credit union;

(15) KRS 61.569 Reinstated employee -- Contributions on creditable compensation;

(16) KRS 61.570 Fund assets;

(17) KRS 61.590 Retirement conditions -- Effective date;

(18) KRS 61.607 Maximum disability benefit -- Determination;

(19) KRS 61.645 Board of trustees;

(20) KRS 61.650 Board trustee of funds -- Investments -- Registration of securities -- Investment policy -- Application of open records law;

(21) KRS 61.655 Board of trustees--Conflict of interest;

(22) KRS 61.660 Custodian of funds -- Securities;

(23) KRS 61.661 Member's account confidential;

(24) KRS 61.670 Actuarial bases -- Actuary for Legislative Research Commission;

(25) KRS 61.675 Employer's administrative duties -- Audit -- Forwarding of contributions;

(26) KRS 61.680 Consent of employees to deductions -- Consolidation for determination of eligibility and determination of benefits -- Waiver -- Choice among retirement systems -- Reciprocal arrangements;

(27) KRS 61.685 Errors in records;

(28) KRS 61.690 Exemption of retirement allowances -- Taxability after December 31, 1997 -- Classifications as marital property -- Domestic relations and child support orders; and

(29) KRS 61.699 System's ability to require statements under oath.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

(1) For an employee hired on or after July 1, 2001, the membership in the system shall consist of the following:

(a) 1. All persons who become employees of a participating department after the date that the department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

2. All employees of a department who did not elect within thirty (30) days of the date that the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(b) All persons who are employees of a department on the date that the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705 or Section 1 to 27 of this Act;

(c) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(d) Professional staff employees of the Higher Education Assistance Authority who are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(e) All persons who are professional staff employees of the Kentucky Authority for Educational Television;

(f) All persons who are employees of the Teachers' Retirement System, except employees who are required to participate under the Teachers' Retirement System under Section 55 of this Act;

(g) Employees of the Kentucky Community and Technical College System who are not required to participate in the Teachers' Retirement System as a member or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System; and

(h) Professional staff employees of the Council on Postsecondary Education who are not participating in another retirement plan sponsored by the Council on Postsecondary Education.

(2) Any member who participated in one (1) of the state-administered retirement systems prior to July 1, 2001, who has not withdrawn his contributions and who becomes a participating employee in one (1) of the systems administered by the Kentucky Retirement Systems on or after July 1, 2001, shall be entitled to the benefits provided by the Kentucky Retirement Systems as if he were hired prior to July 1, 2001.

(3) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22) or Section 17 or 30 of this Act, thereby losing service credit, may obtain the service credit by paying to the system the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in Section 29(2) of this Act, may obtain credit under the provisions of this section in the County Employees Retirement System for current service by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in Section 6 of this Act, by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in Section 3(2) of this Act, may obtain credit under the provisions of this section in the Kentucky Employees Retirement System for current service by paying to the system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in Section 6 of this Act, by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the state-administered retirement systems may obtain credit under the provisions of this section in the Kentucky Employees Retirement System for current service with the department prior to the effective date of participation of his department by paying to the system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in Section 6 of this Act, by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) An employee participating in one (1) of the state-administered retirement systems may obtain credit under the provisions of this section in the County Employees Retirement System for current service with the county prior to the effective date of participation of his county by paying to the County Employees Retirement System a delayed

contribution payment. The delayed contribution payment shall not be picked up, as described in Section 6 of this Act, by the employer.

(6) An employee participating in one (1) of the state-administered retirement systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65), may purchase the following service under the provisions of this section by paying to the system in which he participates a delayed contribution payment, if that service is not credited with any other public defined benefit plan:

- *(a) Service with a state university as provided in Section 50(8) of this Act;*
- *(b) Service as assistants to officers and employees of the General Assembly, if not covered under Section 1(19) of this Act, if the service when added to other accumulated service totals at least forty-eight (48) months;*
- *(c) Approved educational leave without pay;*
- *(d) Approved maternity leave without pay;*
- *(e) Approved sick leave without pay;*
- *(f) Out-of-state service, up to a maximum of ten (10) years, in a regular full-time position that was credited to a state or local government-administered public defined benefit plan other than for teachers;*
- *(g) Out-of-state hazardous service in a full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, up to a maximum of ten (10) years and meeting the requirements of Section 5 of this Act, if participating in the State Police Retirement System or a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System;*
- *(h) Regular full-time service that would have otherwise qualified under KRS 78.530 except that the agency did not participate until merged or taken over;*
- *(i) For persons with twenty-five (25) or more years of current service, up to five (5) years of unqualified service;*
- *(j) Active military service, if discharge is honorable, up to a maximum for four (4) years for members of the Kentucky Employees Retirement System, the State Police Retirement System and the County Employees Retirement System;*
- *(k) Service in the National Guard or the military reserves on a basis of one (1) month of service credit for each six (6) months of guard or reserve service.*

(7) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of Sections 35 to 46, 1 to 27, and 28 to 34 of this Act by making installment payments in lieu of a lump-sum payment.

- *(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time that the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.*
- *(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).*
- *(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to Section 6 of this Act and no employer contributions shall be paid on the installments.*
- *(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.*
- *(e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.*

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of Sections 35 to 46, 1 to 27, and 28 to 34 of this Act by transferring funds pursuant to the rules in 26 U.S.C. sec. 401(a)(31) directly from a retirement plan or a deferred compensation arrangement maintained by his employer which is a qualified plan pursuant to 26 U.S.C. sec. 401(a). Service credit may also be purchased by a rollover of funds from a qualified retirement plan pursuant to the rules specified in 26 U.S.C. sec. 402(c). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in 26 U.S.C. sec. 402 (c) and 26 U.S.C. sec. 401(a)(31). The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(8) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment on or after July 1, 2001, which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment prior to July 1, 2001, which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service in the same plan in which the employee was participating at the time of the omission by paying the employee contributions due within six (6) months of notification by the system. If the service obtained is in the same system in which the employee is participating, and if it was hazardous duty coverage if the employee is in a hazardous duty position or nonhazardous duty coverage if the employee is in a nonhazardous position, the employee shall also pay to the system the actuarially determined cost to have his service after July 1, 2001, credited as service prior to July 1, 2001, and thereafter the employee shall contribute to the initial plan as if membership occurred prior to July 1, 2001. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(c) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in Section 6 of this Act, by the employer.

(9) For any employee hired January 1, 2001, or later who participates in one (1) of the systems administered by the Kentucky Retirement Systems, service purchased under any of the provisions of Section 35 to 46, 1 to 27, and 28 to 34 of this Act, excluding the repayment of refunds provided in subsection (1) of this section and the payment of contributions not reported in subsection (8) of this section, shall not be included in the total service for purposes of Section 26 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

Effective August 1, 2000:

(1) "Hazardous position" means:

(a) Any position whose principal duties involve active law enforcement in a police department and active fire suppression or prevention in a fire department;

(b) Sheriffs and deputy sheriffs certified under KRS 15.380; or

(c) State correctional officers with routine face-to-face contact with state prisoners.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee participating in the Kentucky Employees Retirement System and the County Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, six percent (6%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of Section 9 of this Act;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of twenty (20) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in Section 6 of this Act, by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for in Sections 35 to 46 of this Act.

(5) Any person employed in a hazardous position shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under Sections 1 to 27, 28 to 34, or 35 to 46 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Each employee shall contribute for each pay period for which he receives compensation four percent (4%) of his creditable compensation, unless he did not elect membership under KRS 61.545(3).

(2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in Sections 1 to 27 of this Act.

(3) The deductions provided for in this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in this section; and payment of salary or compensation less these deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by Sections 1 to 27 of this Act.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the time when the contributions are distributed or made available to the employee. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system.

SECTION 7. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer, and interest allowances as provided in Sections 1 to 27 of this Act shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement.

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

SECTION 8. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, the retirement allowance account shall be the account in which shall be accumulated all employer contributions and amounts transferred from the members' contribution account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the system and the board incurred in administration of the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' contribution account as provided in Section 7 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Each employer participating in the State Police Retirement System as provided for in Sections 35 to 46 of this Act, each employer participating in the County Employees Retirement System as provided for in Sections 28 to 34 of this Act, and each employer participating in the Kentucky Employees Retirement System as provided for in Sections 1 to 27 shall contribute annually to the respective retirement system an amount equal to the percent, as computed under subsection (2) of this section, of the creditable compensation of its employees to be known as the "normal contributions," and an additional amount to be known as the "past service contribution" that shall be computed by amortizing the total unfunded past service liability over a period of thirty (30) years using the level-percentage-of-payroll method. Any significant increase in past service liability due to benefit improvements shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.

(2) The normal contribution rate shall be determined by the entry age normal cost funding method. The past service liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.

(3) Normal contribution and the past service contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium. The board may amend contribution rates as of July 1 of the second year of a biennium, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section.

(4) The system shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) In lieu of any other benefits due under Sections 1 to 27 and Sections 28 to 34 of this Act, a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service may elect to receive an annual retirement allowance payable monthly or less frequently, as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) For a nonhazardous member:

(a) A member who is sixty-five (65) years if age or older who has at least forty-eight (48) months of service is eligible for a nonreduced retirement allowance as provided in Section 11 of this Act;

(b) A member who is less than sixty-five (65) years of age may receive a nonreduced retirement allowance as provided in Section 11 of this Act if the sum of the member's age and years of service is equal to or greater than eighty-five (85);

(c) A member who is less than sixty-five (65) years of age may receive a reduced retirement allowance as provided in Section 11 of this Act if the sum of the member's age and years of service is at least seventy-five (75) and less than eighty-five (85).

(3) For a hazardous duty member:

(a) A member who is fifty-five (55) years of age or older who has at least sixty (60) months of service is eligible for a nonreduced retirement allowance as provided in Section 11 of this Act;

(b) A member who is less than fifty-five (55) years of age may receive a nonreduced retirement allowance as provided in Section 11 of this Act if the sum of the member's age and years of service is greater or equal to seventy-five (75);

(c) A member who is less than fifty-five (55) years of age may receive a reduced retirement allowance as provided in Section 11 of this Act if the sum of the member's age and years of service is at least seventy (70) and less than seventy-five (75).

SECTION 11. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) (a) Upon retirement at normal retirement date or subsequent thereto, a nonhazardous member of the Kentucky Employees Retirement System or the County Employees Retirement System may receive an annual retirement allowance, payable monthly during his lifetime, that shall consist of an amount equal to one and nine-tenths percent (1.9%) of final compensation multiplied by the number of years of service credit;

(b) The annual retirement allowance for a member of the Kentucky Employees Retirement System or the County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) Upon service retirement prior to normal retirement date, a member of the Kentucky Employees Retirement System or the County Employees Retirement System may receive an annual retirement allowance, payable monthly during his lifetime, that shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of the member's actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month that he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

SECTION 12. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, the disability requirements, procedures, and benefits shall be the same as provided under KRS 61.600, except that:

(1) For an incapacity in the line of duty, the incapacity shall be the result of injury or accident arising out of or in the course of employment; and

(2) For an incapacity not in the line of duty, the incapacity shall be the result of bodily injury, mental illness, disease, or condition other than at or in the course of employment.

SECTION 13. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Upon disability retirement not in the line of duty, an employee may receive an annual retirement allowance payable monthly during his lifetime that shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.

(2) Upon retirement for a disability in the line of duty, an employee may receive an annual retirement allowance payable monthly during his lifetime that shall be determined in the same manner as for retirement at his normal retirement date except that service shall be added beginning with his last date of paid employment and continuing to his normal retirement age. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service for calculating the member's benefit shall not exceed twenty (20) years for a member in a hazardous position or twenty-seven (27) years for a member in a nonhazardous position.

SECTION 14. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Once each year following the retirement of a member on a disability retirement allowance, or less frequently as determined by the board's medical examiner but not less than once every five (5) years, the system may require the person, prior to his normal retirement date, to undergo a financial and medical staff review and, if necessary, be required to submit current medical information. If he refuses to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

(2) Disability retirees shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.

SECTION 15. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) If a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties as the position from which he was disabled, the board shall suspend the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments made during the employment.

(2) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize procedures consistent with Section 16 of this Act, including services of an examiner, in determining the amount of reduction in retirement allowance under this section.

(3) If a disability retirement allowance is suspended:

(a) The member shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age; and

(b) Upon attaining normal retirement age, the member shall receive his disability retirement allowance or his early retirement allowance.

(4) No disability retirement allowance shall be suspended by the system after the member's normal retirement date.

SECTION 16. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under Sections 1 to 27, 35 to 46, and 28 to 34 of this Act, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under Sections 1 to 27, 35 to 46, and 28 to 34 of this Act, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them.

(2) (a) Each employee requesting disability retirement shall file at the retirement office the names and addresses of all, but no fewer than two (2), physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630.

(b) The employer shall file at the retirement office a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, in accordance with an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to file at the retirement office additional medical information or to appeal his denial for disability benefits by filing at the retirement office a request for a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical

examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been suspended or denied under subsection (2)(g) of this section or Section 15(1) of this Act may file at the retirement office a request for an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the suspension or denial of disability benefits is being contested. The request shall not operate as a stay of any suspension or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in Section 12(1)(g) of this Act. This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing under this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and which shall have the authority to act upon the recommendations and reports of the hearing officer under this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, in accordance with administrative regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the administrative regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of the Kentucky Office of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or the Kentucky Office of Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

SECTION 17. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) A member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his contributions, including the amount of any employee contributions picked up by the employer pursuant to Section 6 of this Act, reduced by the amount of any retirement allowances previously received if the member's employment has been terminated and the member is not participating in the same retirement system.

(2) Each member receiving a refund shall have his individual account credited with interest at a rate of two percent (2%) per annum on his contributions.

(3) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of Sections 35 to 46, 1 to 27, and 28 to 34 of this Act, unless the period of service is regained as provided under Section 4 of this Act. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

(4) Refund of contributions of members whose benefits have been terminated under KRS 6.696 shall be governed by that section.

SECTION 18. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) The contributions of a member not in service may be transferred from the member account to the retirement allowance account if the member's account has remained inactive and the system has been unable to locate the member for a period of seven (7) years.

(2) If the member or his beneficiary, in the event of his death, requests benefits as provided by Sections 1 to 27, 35 to 46, and 28 to 34 of this Act, the transfer shall be reversed, and benefits paid in accordance with the provisions of Sections 1 to 27, 35 to 46, and 28 to 34 of this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of Sections 1 to 27, 35 to 46, and 28 to 34 of this Act. The amount of any optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to his beneficiary during the lifetime of the person.

(3) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of the retirement allowance continued after his death to his beneficiary during the lifetime of the person.

(4) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred eighty (180) months. If the member dies before receiving payments for one hundred eighty (180) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred eighty (180) months' period. However, if the estate or trust is designated as beneficiary, the executor or administrator of the estate or trustee of the trust may elect to receive a lump-sum payment that shall be the actuarial equivalent to the remaining payments, or the executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(5) Pop-up option. The member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to his beneficiary during the lifetime of the person. If the beneficiary dies prior to the member, or if the beneficiary is the member's spouse and they divorce, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.

(6) Actuarial equivalent refund. The member may elect to receive a one (1) time lump-sum payment that shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under Section 11(1) of this Act.

(7) In addition to the optional forms of annuities permitted under this section, the board may establish additional optional forms of annuities. The additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(8) The options described in subsections (2), (3), and (5), of this section shall be extended to the member only if the designated beneficiary is a person.

SECTION 20. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

Reemployed retired members shall be treated as new members upon reemployment and shall meet the following requirements and conditions:

(1) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(2) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(3) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(4) (a) 1. A retired member of the Kentucky Employees Retirement System or the State Police Retirement System who, after initial retirement, is hired by an agency that participates in the Kentucky Employees Retirement System or the State Police Retirement System shall be considered to have been hired by the same employer.

2. If a member of the Kentucky Employees Retirement System retires from a department that participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement, and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(5) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's initial retirement date by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(6) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's initial retirement date.

(b) The retired member shall repay to the retirement system all benefits that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of initial retirement, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended, and the member shall receive the amount to which he is entitled, including an increase as provided by Section 23 of this Act.

(d) If the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(7) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(8) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(9) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of Sections 1 to 27, 35 to 46, and 28 to 34 of this Act, or KRS 16.510 to 16.652, 61.515 to 61.705, or 78.515 to 78.852 that he was eligible to purchase prior to his initial retirement.

(10) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or the County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

SECTION 21. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from the agency, if the leave has been granted in accordance with the policy of the Personnel Cabinet, with service credit of forty-eight (48) months or more, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from the agency, if the leave has been granted in accordance with the policy of the Personnel Cabinet, with service credit of sixty (60) months, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file at the retirement office at the

time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death that shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under Section 19(2) of this Act; or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in Section 10(2) of this Act, dies before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death that shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under Section 19(2) of this Act; or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in the active employment of a participating agency nor on official leave from the agency with twelve (12) or more years of service credit, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death that shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under Section 19(2) of this Act; or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(4) If the member, subject to subsection (1), (2), or (3) of this section had on file in the retirement office a written designation of multiple beneficiaries, or his estate, trust, or trustee, the multiple beneficiaries by consensus, or the administrator or executor of the estate, or the trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), or (3) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred twenty (120) months certain, or an actuarial equivalent refund.

(5) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment that shall be the actuarial equivalent to the amount payable under Section 19(2) of this Act for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment that shall be the actuarial equivalent of the amount payable under Section 19(2) of this Act, assuming the beneficiary's age to be the same as the members, for a period of sixty (60) months.

(6) In the case of a single beneficiary, who is a person, the highest monthly benefit determined under subsection (1), (2), (3), or (5) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (5) of this section for payments for sixty (60) months certain or one hundred twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

(7) Payments of taxable distributions made under this section shall be subject to state and federal income tax as appropriate.

SECTION 22. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) If a retired member who did not elect an optional retirement plan dies at any time after retirement but before receiving total retirement allowances provided in Sections 1 to 27, 35 to 46, and 28 to 34 of this Act at least equal to his contributions as of the date of his retirement, the difference between the contributions and the total allowances shall be payable in a lump sum to the properly designated beneficiary. If a living person designated as the beneficiary predeceases the retired member, the estate shall become the beneficiary. If a spouse designated as the beneficiary is divorced from the retired member as of the member's death, the estate shall become the beneficiary.

(2) If a retired member who elected an optional retirement plan and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in Sections 1 to 27, 35 to 46, and 28 to 34 of this Act at least equal to the retired member's contributions as of the date of his retirement, the difference between the contributions and the total allowances shall be payable in a lump sum to the estate of the last deceased, except that the

retired member's estate shall receive the payment if the beneficiary was the spouse and they were divorced as of the date of the member's death. If the retired member and beneficiary die simultaneously, the estate of the retired member shall become the beneficiary.

(3) If a beneficiary receiving a lifetime retirement allowance under Section 42 or 21 of this Act dies before receiving total retirement allowances provided in Sections 1 to 27, 35 to 46, and 28 to 34 of this Act at least equal to the member's contributions as of the date of the member's death, the difference between the contributions and the total allowances shall be payable in a lump sum to the estate of the beneficiary.

(4) If a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under Section 42 or 21 of this Act, dies before receiving all payments under the plan, the executor or administrator of his estate may elect to receive a lump-sum payment that shall be the actuarial equivalent to the remaining payments, or the executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary.

(5) If the system is unable to verify a recipient's whereabouts or whether the recipient is living, the system shall suspend the recipient's retirement allowance. If the recipient is located, the system shall restore to the recipient all suspended retirement allowances.

SECTION 23. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, a recipient of a retirement allowance under Sections 1 to 27, 35 to 46, and 28 to 34 of this Act shall have his retirement allowance increased by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). The benefits of this subsection shall not be considered as benefits protected by the inviolable contract provisions of Sections 24, 46, and 34 of this Act. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

SECTION 24. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the state from the member's employment, Sections 1 to 27 of this Act shall, except as provided in KRS 6.696, constitute an inviolable contract of the Commonwealth, and the benefits provided in Sections 1 to 27 of this Act shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment, or repeal.

SECTION 25. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, upon retirement members shall receive benefits from the "Kentucky Retirement Systems Insurance Fund" created by Section 26 of this Act.

SECTION 26. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance.

(2) Each employer participating in the State Police Retirement System as provided for in Sections 35 to 46 of this Act, each employer participating in the County Employees Retirement System as provided in Sections 28 to 34 of this Act, and each employer participating in the Kentucky Employees Retirement System as provided for in Sections 1 to 27 of this Act shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. This employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under Section 9 of this Act.

(3) (a) The retirement systems contribution toward the premium required to provide hospital and medical benefits under this section shall be paid:

1. For a retired member the maximum monthly contribution shall be two hundred dollars ($200), effective July 1, 2001.

a. Where the recipient is a retired former member of one (1) or more of the three (3) retirement systems and had twenty-five (25) or more years of service upon retirement, the retired member shall be entitled to the maximum monthly contribution if the recipient agrees to pay the difference in the cost of his insurance selection and the maximum monthly contribution by payroll deduction or otherwise.

b. If the recipient had less than twenty-five (25) years but twenty (20) or more years, a monthly contribution of one hundred sixty dollars ($160) shall be paid from the insurance fund if the recipient agrees to pay the difference in the cost of his insurance selection by payroll deductions from his retirement allowance or by another method.

c. If the recipient had less than twenty (20) years but fifteen (15) or more years, a monthly contribution of one hundred twenty dollars ($120) shall be paid from the insurance fund if the recipient agrees to pay the difference in the cost of his insurance selection by payroll deductions from his retirement allowance or by another method.

d. If the recipient had less than fifteen (15) years but ten (10) or more years, a monthly contribution of eighty dollars ($80) shall be paid from the insurance fund if the recipient agrees to pay the difference in the cost of his insurance selection by payroll deductions from his retirement allowance or by another method.

e. If the recipient had less than ten (10) years but four (4) or more years, a monthly contribution of forty dollars ($40) shall be paid from the insurance fund provided the recipient agrees to pay the difference in the cost of his insurance selection by payroll deductions from his retirement allowance or by another method.

f. If the recipient had less than four (4) years of service, the recipient shall not be entitled to a monthly contribution by the retirement system.

2. If a hazardous member is awarded disability benefits due to an injury in the line of duty, he shall receive the maximum monthly contribution from the insurance fund.

3. A State Police Retirement System member or a hazardous duty position employee, as defined in Section 5 of this Act, who is killed in the line of duty as defined in Section 35(18) of this Act shall have the maximum monthly contribution for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit.

4. As used in this paragraph, "years of service" means the total years of combined service used to determine benefits under any or all of the three (3) retirement systems.

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "years of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. The Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance that shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage.

(c) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(d) The benefits of this section shall be considered base-level benefits and shall be protected by the inviolable contract provisions of Section 24, 46, or 34 of this Act. The General Assembly may award supplemental benefits or coverage rates at any time on an ad hoc basis. Any enhanced benefits or rate increases that may be conferred

in the future on an ad hoc basis shall not be considered part of the inviolable contract provisions and, as such, the General Assembly reserves the right to suspend or reduce any ad hoc benefits conferred in this section if in its judgment the welfare of the Commonwealth so demands.

SECTION 27. A NEW SECTION OF KRS CHAPTER 61A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Upon the death of a retired member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System who had a minimum of forty-eight (48) months of service, a death benefit of five thousand dollars ($5,000) shall be paid. If the retired member had more than one (1) account in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, the system shall pay only one (1) five thousand dollar ($5,000) death benefit. Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member, or if the beneficiary was the spouse and they were divorced on the date of the retired member's death, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

SECTION 28. KRS CHAPTER 78A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, as used in Section 29 to 34 of this Act, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in Section 16 of this Act;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of Sections 28 to 34 of this Act;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee hired on or after July 1, 2001, who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means current service ;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 2001, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account and any other amounts the member shall have contributed;

(12) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up as provided in Section 31(4) of this Act. A lump-sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowance, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be

excluded. "Creditable compensation" also includes amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(13) "Final compensation" means the creditable compensation of the member during the five (5) fiscal years in which he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(14) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions as provided in Section 31(4) of this Act. The rate shall be certified to the system by the employer, and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(15) "Retirement allowance" means the retirement payments to which a member is entitled;

(16) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except that in case of disability retirement, the options authorized by Section 19 of this Act shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement ;

(17) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in Sections 28 to 34 of this Act;

(18) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(19) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties under the provisions of Sections 28 to 34 of this Act;

(20) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

- *(a) Seasonal positions, which although temporary in duration, are positions that coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;*
- *(b) Emergency positions, which are positions that do not exceed thirty (30) working days and are nonrenewable;*
- *(c) Temporary, also referred to as probationary, positions, which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or*
- *(d) Part-time positions, which are positions that may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;*

(21) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(22) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(23) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(24) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in Section 26 of this Act, "beneficiary" does not include an estate, trust, or trustee;

(25) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance;

(26) "Person" means a natural person;

(27) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service. The amount shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made, times the actuarial factor, times the number of years of service being purchased. The payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(30) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;

(31) "Hazardous duty position" means a position that meets the requirement of Section 5 of this Act; and

(32) "Nonhazardous position" means a position that meets the requirements of Section 5 of this Act.

SECTION 29. A NEW SECTION OF KRS CHAPTER 78A IS CREATED TO READ AS FOLLOWS:

(1) The membership in the system shall consist of the following:

(a) On or after July 1, 2001, all persons who become employees of a participating county after the date that the county first participates in the system, except a person who did not elect membership under KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(b) 1. All employees of a department who did not elect within thirty (30) days of the date that the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

2. All persons who are employees of a county on the date that the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in Sections 28 to 34 of this Act; and

(c) All persons electing coverage in the system under KRS 78.530(3)(d).

(2) The provisions of paragraphs (a) and (b) of subsection (1) of this section notwithstanding, cities that participate in the County Employees Retirement System and close existing local pension systems to new, or all members under the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(3) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

SECTION 30. A NEW SECTION OF KRS CHAPTER 78A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, the following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System, the County Employees Retirement System, or Sections 1 to 27, 28 to 34, and 35 to 46 of this Act, as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, Armed Forces, as provided for by Section 4 of this Act;

(7) Normal and early retirement eligibility requirements, as provided for by Section 10 of this Act;

(8) Retirement allowance increases as provided for by Section 23 of this Act;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by Section 12 of this Act;

(11) Disability retirement, allowance, as provided for by Section 13 of this Act;

(12) Medical examination after disability retirement, as provided for by Section 14 of this Act;

(13) Disability retirement allowance, reduction, as provided for by Section 15 of this Act;

(14) Determination of retirement allowance, as provided for by Section 11 of this Act;

(15) Refund of contributions, conditions, as provided for by Section 3 of this Act;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by Section 19 of this Act;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by Section 20 of this Act;

(19) Death before retirement, beneficiary's options, as provided for by Section 21 of this Act;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by Section 16 of this Act;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by Section 18 of this Act;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by Section 5 of this Act;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by Section 9 of this Act;

(35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by Section 4 of this Act;

(36) Hospital and medical insurance plan, as provided by Section 26 of this Act;

(37) Death benefit, as provided by Section 27 of this Act;

(38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(40) Disability procedure for members in hazardous positions as provided for in Section 43 of this Act;

(41) Retirement System created, as provided for in KRS 78.520;

(42) Participation by political subdivisions, as provided for in KRS 78.530;

(43) Duties of county attorney as employer, as provided for in KRS 78.5302;

(44) Optional participation by members of retirement system in cities, counties, or urban-county governments, as provided in KRS 78.531;

(45) Employees formerly employed by private employer, as provided in KRS 78.532;

(46) Employees of Metropolitan Park and Recreation Board of Jefferson County, credit for former service, as provided in KRS 78.533;

(47) Participation of qualified circuit clerks and deputy clerks, as provided in KRS 78.534;

(48) Termination of participation, as provided in KRS 78.535;

(49) Nonelection of membership, as provided in KRS 78.550;

(50) Service credit for other public employment by delayed contribution payment--recalculation of benefits for retirees, as provided in KRS 78.605;

(51) Service credit earned upon retirement of noncertified employee--recalculation of benefits, as provided in KRS 78.606;

(52) Deduction of employee contributions--service credit--employer's report--picked-up employee contributions as provided in KRS 78.615

(53) Purchase of service credit with retirement system for unused sick leave--alternative, as provided in KRS 78.616;

(54) Contributions forwarded to board, collection, suspension of benefits on delinquency, as provided in KRS 78.625;

(55) Fund assets, as provided in KRS 78.630;

(56) Administration of systems by board of trustees of state system, as provided in KRS 78.780; and

(57) Board of trustee of funds, investments, registration of securities, as provided in KRS 78.790.

SECTION 31. A NEW SECTION OF KRS CHAPTER 78A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Each employee shall contribute, for each pay period for which he receives compensation, four percent (4%) of his creditable compensation unless he did not elect membership under KRS 61.545(3).

(2) The agency reporting official of a participating county shall cause to be deducted from the creditable compensation of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in Section 28 to 34 of this Act. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.

(3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by Sections 28 to 34 of this Act.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee.

SECTION 32. A NEW SECTION OF KRS CHAPTER 78A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer shall be credited. From this account shall be paid the contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. Prior to the member's retirement, death, or refund, no funds shall be made available from the member contribution account.

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

SECTION 33. A NEW SECTION OF KRS CHAPTER 78A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, the retirement allowance account shall be the account in which shall be accumulated all employer contributions and amounts transferred from the members' contribution account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the system and the board in administration of the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the member's contribution account interest as provided by Section 17 of this Act.

SECTION 34. A NEW SECTION OF KRS CHAPTER 78A IS CREATED TO READ AS FOLLOWS:

It is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the county from the member's employment, Sections 28 to 34 of this Act shall, except as provided in KRS 6.696, constitute an inviolable contract of the Commonwealth, and the benefits provided in Sections 28 to 34 of this Act shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment, or repeal.

SECTION 35. KRS CHAPTER 16A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, as used in Sections 35 to 46 of this Act, unless the context requires otherwise:

(1) "System" means the State Police Retirement System created by KRS 16.510;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 2001, for which creditable compensation was paid by the employer and employee contributions deducted, except as otherwise provided;

(5) "Service" means current service;

(6) "Contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account as provided in Section 38 of this Act and any other amounts the member shall have contributed;

(7) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave,

which are includable on the member's federal form W-2 wage and tax statement, under the heading "wages, tips, other compensation." A lump-sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. "Creditable compensation" also includes amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(8) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years in which he was paid at the highest average monthly rate divided by the number of months of service credit during the five (5) year period, multiplied by twelve (12); the five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(9) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up under Section 37(4) of this Act. The rate shall be certified to the system by the employer, and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(10) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(11) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(12) "Actuarially equivalent benefits" means benefits that are of equal value when computed upon the basis of actuarial tables adopted by the board;

(13) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(14) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday;

(15) "Disability retirement date" means the first day of the month following total and permanent disability;

(16) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(17) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by Sections 35 to 46 of this Act;

(18) "Act in line of duty" means an act occurring or a thing done, that, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under Section 5 of this Act, an "act in line of duty" means an act occurring that was required in the performance of the principal duties of the position as defined by the job description;

(19) "Early retirement date" means the retirement date declared by a member prior to the age fifty-five (55);

(20) "Member" means any officer included in the membership of the system as provided under Section 36 of this Act whose membership has not been terminated under KRS 61.535;

(21) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(22) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(23) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or Section 27 of this Act to receive any available benefits in the event of the member's death. As used in Section 26 of this Act, "beneficiary" does not include an estate, trust, or trustee;

(24) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance;

(25) "Person" means a natural person;

(26) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(27) "Delayed contribution payment" means an amount paid by an employee for current service. The amount shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made, times the actuarial factor, times the number of years of service being purchased;

(28) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current

service credit for the month;

(29) "Objective medical evidence" means medical histories, reports of examinations or treatments; medical signs that are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs that are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings that are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(30) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and

(32) "Hazardous duty position" means a position meeting the requirements of this section and Section 5 of this Act.

SECTION 36. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

(1) Membership in the system shall consist of all regular full-time officers hired on or after July 1, 2001, in the Kentucky State Police appointed under KRS 16.050 who are entitled to exercise the powers of peace officers except those who do not choose to participate pursuant to KRS 61.545(3).

(2) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

SECTION 37. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) Each member shall contribute for each pay period for which he receives compensation, six percent (6%) of his creditable compensation.

(2) Each employer shall cause to be deducted from the compensation of each member for each and every payroll period the contributions payable by such member as provided in Sections 35 to 46 of this Act.

(3) Every member shall be deemed to consent to deductions made as provided in subsection (2) of this section; and the payment of salary or compensation less these deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by Sections 35 to 46 of this Act.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. Each employer shall pay the picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system.

SECTION 38. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) The member contribution account shall be the account to which all members' contributions shall be credited; only funds from this account shall be used to return contributions of a member when required by reason of any provision of Sections 35 to 46 of this Act. Prior to the member's retirement, death, or refund, no funds shall be made available from the member's contribution account.

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Upon the retirement of a member, his accumulated contributions shall be transferred from the member's contribution account to the retirement allowance account.

SECTION 39. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, the retirement allowance account shall be the account in which shall be accumulated all employer contributions, amounts transferred from the member contribution account, and to which all income from the investment assets of the system shall be credited. From this account there shall be paid administrative expenses and in addition all benefits payable under Sections 35 to 46 of this Act. There shall be transferred from this account to the member's contribution account interest as provided by Section 17 of this Act.

SECTION 40. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, who retires at the normal retirement date:

(1) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the system, setting forth at what time the retirement is to become effective, if the effective date shall be after his last day of service and subsequent to the filing of the notice at the retirement office.

(2) The member shall have the right to elect to have his retirement allowance payable under subsection (3) or (4) of this section or any one (1) of the plans set forth in Section 19 of this Act.

(3) A member of the Kentucky State Police Retirement System or a hazardous duty position member of the Kentucky Employees Retirement System or the County Employees Retirement System may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and fifteen hundredths percent (2.15%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(4) In lieu of any other benefits due under Sections 35 to 46 of this Act, a member who has attained age fifty-five (55) and who has attained at least one (1) month of service credit but no more than fifty-nine (59) months of service credit may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, that shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

SECTION 41. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, who retires prior to the normal retirement date:

(1) Upon retirement prior to age fifty-five, a member may receive an annual retirement allowance, payable monthly during the member's lifetime, that shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(2) (a) A member who is less than fifty-five (55) years of age may receive an unreduced retirement allowance if the sum of the member's age and years of service is equal to or greater than seventy-five (75);

(b) A member who is less than fifty-five (55) years of age may receive a reduced retirement allowance if the sum of the member's age and years of service is at least seventy (70) and less than seventy-five (75). The amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits as determined by the board.

SECTION 42. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) If a member, eligible to retire as provided in Section 40 of this Act, dies at any time before the first benefit payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly that shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under Section 19(2) of this Act or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain or the beneficiary may elect the actuarial equivalent refund.

(2) If a member in active employment or on authorized leave of absence with five (5) or more years of service dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death that shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under Section 19(2) of this Act or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death that shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under Section 19(2) of this Act or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain or the beneficiary may elect the actuarial equivalent refund.

(4) If the member, subject to subsection (1), (2), or (3) of this section had on file a written designation of multiple beneficiaries, or his estate, trust, or trustee, the multiple beneficiaries by consensus, or the administrator or executor of the estate, or the trustee may elect to receive the actuarial equivalent to the benefit allowable under subsection (1), (2), or (3) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member

had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(5) The beneficiary may elect to receive a one (1) time lump-sum payment that shall be the actuarial equivalent of the amount payable under Section 19(2) of this Act for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under Section 19(2) of this Act, assuming the beneficiary's age to be the same as the member's, for a period of sixty (60) months.

(6) In the case of a single beneficiary who is a person, the highest monthly benefit determined under subsection (1), (2), (3), or (5) of this section for a life annuity, for payments for sixty (60) months certain, for payments for one hundred twenty (120) months certain, for the actuarial equivalent refund shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (5) of this section for payments for sixty (60) months certain or one hundred twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

SECTION 43. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, who is in a hazardous duty position, the disability requirements, procedures, and benefits shall be the same as for a person in a nonhazardous position, as provided in Section 12 of this Act, except that:

(1) The disability retirement allowance for a disability that occurs not in the line of duty shall be determined as provided in Sections 40 and 41 of this Act.

(2) If the member receives a satisfactory determination of total and permanent disability pursuant to Section 16 of this Act and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (1) of this section, except that the normal retirement benefit shall not be reduced and the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(3) If a regular full-time officer or hazardous position member has been approved for benefits under a disability, the board shall, upon request of the member, permit the member to receive the disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(4) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (1) or (2) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

SECTION 44. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001:

(1) If the death of a member in service occurs as a direct result of an act in line of duty and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary, who is his spouse, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death or until the spouse remarries, whichever occurs first.

(2) If the death of a member in service occurs as a direct result of an act in line of duty and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary other than his spouse, who is a dependent receiving at least one-half (1/2) of his support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000).

(3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in Section 17 of this Act or benefits under any other provisions of Sections 35 to 46 of this Act.

(4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of Sections 35 to 46 of this Act may elect benefits under this section or any other section of Sections 35 to 46 of this Act but cannot elect to receive both.

SECTION 45. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

For an employee hired on or after July 1, 2001, the following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System, the State Police Retirement System, or Sections 1 to 27, 35 to 46, and 28 to 34 of this Act, as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by Section 6 of this Act;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by Section 23 of this Act;

(7) Calculation of retirement allowance, as provided for by Section 11(3) and (4) of this Act;

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by Section 22 of this Act;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by Section 18 of this Act;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by Section 9 of this Act;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by Section 4 of this Act;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by Section 17 of this Act;

(23) Hospital and medical insurance plan, as provided by Section 26 of this Act;

(24) Death benefit, as provided by Section 27 of this Act;

(25) Disability retirement allowance, reduction, discontinuance, as provided by Section 15 of this Act;

(26) Service credit, Armed Forces, as provided by Section 4 of this Act;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(29) Retirement of persons in hazardous positions, as provided for by Section 5 of this Act;

(30) Establishment of retirement system, as provided for in KRS 16.510;

(31) Membership statements and certificates provided for by KRS 16.530;

(32) Service credit for other public employment by delayed contribution payment, recalculation of benefits for retirees, as provided by KRS 16.537;

(33) Determination of service credit, picked-up employee contributions, as provided by KRS 16.543;

(34) Assets of the system, as provided by KRS 16.555;

(35) Medical examinations after disability retirement, as provided by KRS 16.596;

(36) Administration of system, as provided by KRS 16.640; and

(37) Board of trustee funds, investments, registration of securities, as provided by KRS 16.642.

SECTION 46. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

It is hereby declared that in consideration of the contributions by the member, and in further consideration of benefits received by the state from the member's employment, Sections 35 to 46 of this Act, except as provided in KRS 6.696, shall constitute an

inviolable contract of the Commonwealth, and the benefits provided in Sections 35 to 46 of this Act, shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment or repeal.

Section 47. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System, or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current, may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided

by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service~~[obtained under KRS 61.552]~~. The amount shall be determined ***by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.***~~[using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and]~~The payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(31) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year; and

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543.

Section 48. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case

of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;~~[except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;]~~

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from

time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service~~[obtained under KRS 61.552]~~. The amount shall be determined ***by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.***~~[using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and]~~The payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically

demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 49. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, to work less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee~~[, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board]~~ may purchase the service credit by paying the retirement system ***a delayed contribution payment. The state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board***~~[the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members who have service credit prior to July 1, 1992, or their employers,]~~ may purchase service credit ***on behalf of the employee*** for previous years by paying the retirement system ***an amount calculated the same as a delayed contribution payment. Payment by the employer shall not be deposited to the member's contribution account***~~[the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate]~~.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay ***an amount equal to fifty percent (50%) of the cost of a delayed contribution payment***~~[the employer contributions plus interest]~~ and the employee shall pay ***fifty percent (50%) of the cost***~~[the employee contributions plus interest]~~. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 50. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems ~~[or an employee of a parted employer]~~ who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system.~~[If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death.]~~ The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall

not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee ***participating in one (1) of the state-administered retirement systems*** may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or~~[the employee may pay]~~ by increments.~~[Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.]~~

(5) ***(a)*** An employee ***participating in one (1) of the state-administered retirement systems***~~[who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958,]~~ may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates ***a delayed contribution payment***~~[the full cost of the service credit purchased, as determined by the board's actuary]~~. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, ***2000***~~[1988]~~, service credit obtained under subsections~~[(1) to (5), (8) to (12), (14), (15), and (17) to (25)]~~ of this section ***that do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase*** shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member~~[, upon request,]~~ if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems~~[or as an employee of a parted employer]~~. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky

Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;.

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) ***Employees***~~[Members]~~ who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) ***(a)*** Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The ***service may be obtained by paying to the retirement system a delayed contribution payment***~~[cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4)]~~.

(b) Any noncertified employee of a school board may purchase service credit for ***seasonal, emergency, temporary, or*** part-time employment~~[prior to the 1990-91 school year]~~ which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board ***may purchase***~~[shall be allowed]~~ credit only for those months he receives creditable compensation for eighty (80) hours of work.~~[The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).]~~

(13) ***(a)*** ***Effective August 1, 2000,*** a retired member ***who elected to remain under the provisions of subsections (1) to (4) of KRS 61.637***, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section***, which he was eligible to purchase prior to his retirement,*** in the system or systems from which he is retired, shall have his retirement allowance recomputed:

1.~~[(a)]~~ Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

2.[~~(b)~~] Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(b) A retired member who is reemployed and contributing to a second retirement account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.515 to 78.852 that the member was eligible to purchase prior to his initial retirement.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under paragraph(e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(c) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402 (c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System or, if younger, who has sixty (60) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay ***a delayed contribution payment***[~~the full cost of the service as determined by the system~~]. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay ***a delayed contribution payment***[~~the full cost of the service credit as determined by the system~~]. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates ***a delayed contribution payment***[~~the full cost of the service credit purchased, as determined by the system~~]. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The[~~ cost of the~~] service ***may be purchased by making a delayed contribution payment***[~~shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4)~~].

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23)[~~ Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month~~

~~of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.~~

~~(24)~~] (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24)[~~(25)~~] Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25)[~~(26)~~] Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the ***delayed contribution payment***[~~full actuarial cost as determined by the system~~]. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

Section 51. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***[~~discharge~~], or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any ***employee***[~~member of the system~~] who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***[~~his honorable discharge therefrom~~], or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the

Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) ***Any employee participating in one (1) of the state-administered retirement systems***[~~A member~~] eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service..

(6) Any ***employee participating in one (1) of the state-administered retirement systems***[~~member~~] age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***[~~any other member~~] who has sixty (60) months of service, at least twelve (12) of which are current service[~~ (or his beneficiary if the member dies prior to retirement))~~] shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in KRS 61.510(22). Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described KRS 61.560(4), by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled.[~~ Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.~~]

(8) Any ***employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***[~~member of the Kentucky Employees Retirement System~~] age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***[~~any member of the Kentucky Employees Retirement System or the State Police Retirement System~~] who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system ***a delayed contribution payment***[~~the full actuarial cost as determined by the system~~]. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 52. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system

determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty as defined in KRS 16.505(19), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary,

if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary. The percentage of the monthly contribution paid for the spouse and dependents shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) Any member whose effective retirement date is August 1, 2000, or after and who is later employed in a regular full-time position in one (1) of the retirement systems administered by the Kentucky Retirement Systems shall either waive coverage in the employer's medical insurance plan or in the Kentucky Retirement Systems' medical insurance plan.

Section 53. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS

61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service~~[obtained under KRS 61.552]~~. The amount shall be determined ***by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.***~~[using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and]~~ The payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.

Section 54. KRS 78.606 is amended to read as follows:

(1) Upon retirement, a noncertified employee shall have his service credit earned after July 1, 1998, recalculated in accordance with KRS 78.615 except that the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounding any remainder to the next whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.

(2) Each school board for whom the employee worked shall pay the cost of the additional months of service credited to the employee for school years reported by the school board. The cost shall be ***calculated*** the ***same as a delayed contribution payment***~~[member and employer contributions that would have been paid on the employee's average monthly salary for each school year plus interest at the actuarial rate]~~. Payment shall be due at the retirement office within thirty (30) days of receipt of notice from the retirement system. If the school board does not make the payment within thirty (30) days, interest at the actuarial rate shall be added to the payment for each additional thirty (30) days after payment is due.

(3) An employee who takes a refund, in accordance with KRS 61.625, of contributions made as an employee of a school board shall not be entitled to additional months service credit under subsection (1) of this section for the period covered by the refund. If the employee repays the refund as provided by KRS 61.552(1), the employee may have his service recalculated under the provisions of subsection (1) of this section for the period covered by the refund if the member pays the cost of the additional months prior to his retirement. The cost shall be the same as for the employer. The payment shall be credited to the member's account.

(4) The Kentucky Retirement Systems shall adjust the service credit for all affected members who earned service credit for the school years 1996-97 and 1997-98 by recomputing the members' service based on the rounding method provided in subsection (1) of this section.

Section 55. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors

in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;

(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;

(m) The Department of Vocational Rehabilitation;

(n) The Kentucky Educational Collaborative for State Agency Children;

(o) The Governor's Scholars Program;

(p) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(q) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System; and

(r) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, ***for persons hired prior to July 1, 2001,*** the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary ***for a person employed prior to July 1, 2001,*** was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least

seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

The House Committee Amendment No. 1 to **SB 349** is as follows:

On page 17, line 26, by deleting "***or***"; and

On page 18, line 1, by adding after "***prisoners***" the following: "***;***

(d) Jailers and deputy jailers, if requested by the fiscal court as provided in subsection (2) of this section; or

(e) Emergency medical services personnel".

The Committee on Health and Welfare reported **HR 166, HR 169,** and **HR 170** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 166, A RESOLUTION in support of the establishment of a Best Buddies Program in the Commonwealth of Kentucky.

WHEREAS, it is estimated that approximately 119,000 individuals in Kentucky are affected by mental retardation, and that the majority of those are individuals with mild mental retardation; and

WHEREAS, Kentucky has been ranked in the lower third of all states in its financial commitment to community services for individuals; and

WHEREAS, individuals with mental retardation often experience isolation and exclusion from community activities because of limited opportunities to associate with persons other than their immediate family and paid workers; and

WHEREAS, the Best Buddies Program seeks to broaden the social interactions of individuals with mental retardation by facilitating long-term, one-to-one friendships between high school and college students, community volunteers, and individuals with mental retardation; and

WHEREAS, the Best Buddies Program offers opportunities for enhanced social skills and supported employment programs for individuals with mental retardation; and

WHEREAS, the Best Buddies Program exists in 35 states at 265 colleges and 141 high schools and 94 percent of those students indicate that they enjoy the experience and recommend participation in the program to others; and

WHEREAS, the student population of Kentucky's colleges and high schools is an untapped resource for leadership, compassion, and responsible friendship that may support a Best Buddies Program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes and supports efforts to establish a Best Buddies Program in the Commonwealth of Kentucky for the benefit of individuals with mental retardation and volunteers.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Education, Arts, and Humanities Cabinet, Office of the Secretary, Old Capitol Annex, First Floor, 300 West Broadway, Frankfort, Kentucky 40601, the Cabinet for Health Services, 275 East Main, Frankfort, Kentucky 40601, the Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, the Kentucky Congress of Parents and Teachers, Post Office Box 654, 148 Consumer Lane, Frankfort, Kentucky 40602, the Kentucky Board of Education, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, the Kentucky School Boards Association, 260 Democrat Drive, Frankfort, Kentucky 40601, the Kentucky Education Association, 401 Capitol Avenue, Frankfort, Kentucky 40601, and the Best Buddies Headquarters, 100 Southeast Second Street, Suite 1990, Miami, Florida 33131.

HR 169, A RESOLUTION urging the Department of Public Health in the Cabinet for Health Services to develop programs that encourage breast-feeding.

WHEREAS, the House of Representatives of the General Assembly of the Commonwealth of Kentucky recognizes and hereby declares that breast-feeding a baby is an important and basic act of nurture that must be encouraged in the interests of maternal and child health and family values; and

WHEREAS, the medical profession in the United States recommends that babies from birth to the age of one year should be breast-fed unless, under particular circumstances, it is medically inadvisable; and

WHEREAS, babies who are breast-fed have lower rates of death, meningitis, childhood leukemia and other cancers, diabetes, respiratory illnesses, bacterial and viral infections, diarrheal diseases, otitis media, allergies, obesity, and developmental delays; and

WHEREAS, breast-feeding also provides significant benefits to the health of the mother, including protection against breast cancer and other cancers, osteoporosis, and infections of the urinary tract; and

WHEREAS, a mother should have the right to breast-feed her baby in any location, public or private, where the mother is otherwise authorized to be;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department for Public Health is urged to develop initiatives that encourage breast-feeding. The initiatives may address, but not be limited to, the following:

(1) A program to recognize a business or agency that uses the designation "mother-friendly" in its promotional materials if the business or agency develops a policy supporting the practice of worksite breast-feeding;

(2) A policy to encourage a state agency that administers a program providing maternal or child health services to provide information that promotes breast-feeding to program participants who are pregnant women or mothers with infants;

(3) A plan to provide information on the Baby-Friendly Hospital Initiative;

(4) A program of lactation support services offered as part of the benefits and services provided for pregnant and breast-feeding participants in the Women, Infants, and Children Nutrition Program; and

(5) An effort to coordinate the operation of the Women, Infants, and Children Nutrition Program with the Department for Medicaid Services whereby each department provides information about the services offered by the other to applicants for services.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Secretary of the Cabinet for Health Services and the Commissioner for Public Health, 275 East Main Street, Frankfort, Kentucky 40601.

HR 170, A RESOLUTION requesting a study of best practices in the provision of time-limited cash assistance and access to supportive services, including education and training, to low-income families by family support workers.

WHEREAS, the Cabinet for Families and Children has undergone a major reorganization as the result of the implementation of the 1996 Federal Welfare Reform legislation; and

WHEREAS, the focus of public assistance services has changed from eligibility determination to enforcing work requirements, encouraging employment stability, and facilitating self-sufficiency; and

WHEREAS, the array of public assistance services available to applicants has grown and the need for applicants to be aware of possible options has increased; and

WHEREAS, the 1998-99 Subcommittee on Welfare Reform of the Interim Joint Committee on Health and Welfare wishes to ensure effective communication regarding policies and regulations between the cabinet, local offices, family support workers, and recipients; and

WHEREAS, the cabinet has expressed an ongoing commitment to the improvement of service delivery and to achieving the goals of welfare reform; and

WHEREAS, the number of cash assistance cases has declined by over 40 percent since 1996, leaving a larger portion of recipients with multiple barriers to self-sufficiency who will face the 60 month time limit for public assistance in 2001; and

WHEREAS, an efficient method of improving service delivery is to study the best practices of staff and encourage those practices where appropriate through all levels of administration of the cabinet;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body requests the Interim Joint Committee on Health and Welfare to study best practices in the provision of time-limited cash assistance and access to supportive services, including education and training, to low-income families by family support workers. The committee is encouraged to recognize the input of recipients of public assistance and family support workers in conducting the study and in making recommendations to the Cabinet for Families and Children for improving services.

Section 2. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to each co-chair of the Interim Joint Committee on Health and Welfare.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 25, HB 44, HB 321, HB 381, HB 386, HB 474, HB 596, HB 599, HB 618, HB 620, HB 640, HB 696, HB 719, HB 733, HB 758, HB 811, HCR 7,** and **HCR 20** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:30 a.m.)

Orders of the Day

SB 160 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 160** be placed back in the Orders of the Day and retain it's position. Agreed.

SB 259 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved that **SB 259** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 24 , 2000 roll call on **SB 259** - Appendix.)

SB 259 was passed and the title agreed to.

Representative Miller moved that the vote by which **SB 259** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 215 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved that **SB 215** be passed.

On the roll call the vote was: **Yeas 54, Nays 36**. (See March 24 , 2000 roll call on **SB 215** - Appendix.)

SB 215 was passed and the title agreed to.

Representative Haydon moved that the vote by which **SB 215** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 160 taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 160** be passed.

On the roll call the vote was: **Yeas 90, Nays 2**. (See March 24 , 2000 roll call on **SB 160** - Appendix.)

SB 160 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 160** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 171 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marcotte moved that **SB 171** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 24 , 2000 roll call on **SB 171** - Appendix.)

SB 171 was passed and the title agreed to.

Representative Marcotte moved that the vote by which **SB 171** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 73 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **SJR 73** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 24, 2000 roll call on **SJR 73** - Appendix.)

SJR 73 was adopted.

Representative Adkins moved that the vote by which **SJR 73** was adopted be reconsidered and said motion be placed on the table. Agreed.

SCR 88 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **SCR 88** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 24, 2000 roll call on **SCR 88** - Appendix.)

SCR 88 was adopted.

Representative Cherry moved that the vote by which **SCR 88** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 247, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the House Committee Substitute to **SB 247**. Agreed.

Representative L. Clark moved that **SB 247**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 49, Nays 38**. (See March 24, 2000 roll call on **SB 247** - Appendix.)

SB 247, by way of House Committee Substitute, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **SB 247**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 279, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the House Committee Substitute to **SB 279**. Agreed.

Representative Moberly moved that **SB 279**, by way of House Committee Substitute, be passed.

Representative Damron moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 279**. Agreed.

Representative Moberly moved that **SB 279**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 24, 2000 roll call on **SB 279** - Appendix.)

SB 279, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 279**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 305, with House Floor Amendments and House Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of House Floor Amendment No. 2 to **SB 305**. Agreed.

Representative Barrows moved that **SB 305**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 24, 2000 roll call on **SB 305** - Appendix.)

SB 305, as amended, was passed.

Representative Barrows moved the adoption of House Floor Amendment No. 3 Title to **SB 305**. Agreed; and the title was agreed to.

Representative Barrows moved that the vote by which **SB 305**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 359, HB 178, HB 296, HB 390, HB 443, HB 483, HB 543, HB 650, HB 737, HB 765, HB 768, HB 777, HB 870, HJR 128, HJR 131,** and **HB 884**. (Time: 12:00 p.m.)

Message in regard to **HB 177**: The Senate has passed **HB 177** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 561**: The Senate has passed **HB 561** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 634**: The Senate has passed **HB 634** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 808**: The Senate has passed **HB 808** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 875**: The Senate has passed **HB 875** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Orders of the Day (Continued)

SJR 104 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved that **SJR 104** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 24, 2000 roll call on **SJR 104** - Appendix.)

SJR 104 was adopted.

Representative Branham moved that the vote by which **SJR 104** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 78 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **SB 78** be passed.

On the roll call the vote was: **Yeas 94, Nays 3**. (See March 24 , 2000 roll call on **SB 78** - Appendix.)

SB 78 was passed and the title agreed to.

Representative Napier moved that the vote by which **SB 78** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ratliff moved that **SB 147** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 24 , 2000 roll call on **SB 147** - Appendix.)

SB 147 was passed and the title agreed to.

Representative Ratliff moved that the vote by which **SB 147** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 137 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved that **SB 137** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 24 , 2000 roll call on **SB 137** - Appendix.)

SB 137 was passed and the title agreed to.

Representative J. Turner moved that the vote by which **SB 137** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 154 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Alexander moved that **HCR 154** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0.** (See March 24, 2000 roll call on **HCR 154** - Appendix.)

HCR 154 was adopted.

Representative Alexander moved that the vote by which **HCR 154** was adopted be reconsidered and said motion be placed on the table. Agreed.

Recess (Continued)

Representative Stumbo moved to allow the House to recess until 1:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Message received in regard to **HB 502**: The Senate has **HB 502** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 1:15 p.m.)

Orders of the Day (Continued)

SB 324 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **SB 324** be passed.

On the roll call the vote was: **Yeas 91, Nays 0.** (See March 24 , 2000 roll call on **SB 324** - Appendix.)

SB 324 was passed and the title agreed to.

Representative Callahan moved that the vote by which **SB 324** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 163, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams inquired if House Floor Amendment No. 2, House Floor Amendment No. 3, House Floor Amendment No. 4, and House Floor Amendment No. 5 were piggybacks.

The Speaker stated that he cannot rule on the House Floor Amendments until the amendments are placed before the Body for consideration.

Representative J. Adams moved that **SB 163** be passed.

Representative Anderson moved the adoption of House Floor Amendment No. 1 to **SB 163**.

Representative Geveden inquired if House Floor Amendment No. 1 to **SB 163** was germane.

The Speaker ruled that House Floor Amendment No. 1 to **SB 163** was not germane.

Representative Riggs moved the adoption of House Floor Amendment No. 2 to **SB 163**.

Representative Riggs moved that the rules be suspended to consider House Floor Amendment No. 2 to **SB 163**.

Representative Collins inquired if House Floor Amendment No. 2 to **SB 163** was germane.

The Speaker ruled that House Floor Amendment No. 2 to **SB 163** was not germane.

Representative Riggs moved the adoption of House Floor Amendment No. 6 to **SB 163**. Agreed.

Representative Hoffman inquired if House Floor Amendment No. 6 to **SB 163** was germane.

The Speaker ruled that House Floor Amendment No. 6 to **SB 163** was germane.

Representative J. Adams moved that **SB 163**, as amended, be passed.

On the roll call the vote was: **Yeas 66, Nays 20**. (See March 24, 2000 roll call on **SB 163** - Appendix.)

SB 163, as amended, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **SB 163**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 25, HB 44, HB 321, HB 381, HB 386, HB 474, HB 596, HB 599, HB 618, HB 620, HB 640, HB 696, HB 719, HB 733, HB 758, HB 811, HCR 7, and **HCR 20** delivered to the Senate and signed by the President. Delivered to the Governor on March 24, 2000, at 1:42 p.m.

Orders of the Day (Continued)

HB 502, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 502** is as follows:

HB 502, AN ACT relating to the financing for the budgetary operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 2000, and for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

   a. Office of the Governor

	2000-01	2001-02
General Fund	127,631,900	69,962,700
Restricted Funds	1,197,600	950,000
Federal Funds	373,400	261,700
Total	129,202,900	71,174,400

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

Included in the above General Fund (Tobacco) appropriation is $2,559,100 in fiscal year 2000-2001 and $3,157,700 in fiscal year 2001-2002 and included in the above Federal Funds appropriation is $150,000 in each fiscal year to support Community Councils, Community Councils staffing, the Business Council, the Professional Development Council, the Early Childhood Board, evaluation of the initiative, and the Headstart Collaborative.

b. Office of State Budget Director

	1999-00	2000-01	2001-02
General Fund	200,000	3,633,900	3,868,300
Restricted Funds		924,000	963,000
Total	200,000	4,557,900	4,831,300

c. State Planning Fund

	2000-01	2001-02
General Fund	500,000	500,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a $50,000 grant in each fiscal year to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	1999-00	2000-01	2001-02
General Fund	200,000	131,765,800	74,331,000
Restricted Funds		2,121,600	1,913,000
Federal Funds		373,400	261,700
TOTAL	200,000	134,260,800	76,505,700

2. GOVERNOR'S OFFICE OF TECHNOLOGY

	2000-01	2001-02
General Fund	-0-	1,267,000
Restricted Funds	61,690,600	63,420,700
Road Funds	125,000	125,000
Total	61,815,600	64,812,700

Included in the above Restricted Funds appropriation is $520,000 in fiscal year 2000-2001 and $536,000 in fiscal year 2001-2002 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that directly benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

There is established in the Governor's Office of Technology the Office of Statewide 911 Coordination. Included in the above Restricted Funds appropriation is $200,000 in each fiscal year for the Office of Statewide 911 Coordination.

The General Fund appropriation above represents debt service on the Unified Criminal Justice Information System, Maintaining Kentucky Spatial Data Infrastructure, and the Statewide Microwave Network Maintenance.

3. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

	2000-01	2001-02
General Fund	7,453,300	14,108,800
Restricted Funds	12,456,700	16,357,600
Total	19,910,000	30,466,400

Included in the above General Fund appropriation is $203,400 in fiscal year 2000-2001 and $3,527,300 in fiscal year 2001-2002 for personnel and operating costs for the Eastern Kentucky Veterans' Center; $203,400 in fiscal year 2000-2001 and $3,445,900 in fiscal year 2001-2002 for personnel and operating costs for the Western Kentucky Veterans' Center; $350,000 in each fiscal year for additional staffing for the Commissioner's Office and Field Services; and $206,000 in fiscal year 2001-2002 for personnel and operating costs for the Western Kentucky Veterans' Cemetery.

Included in the above General Fund appropriation in fiscal year 2001-2002 is $66,000 for debt service.

Included in the above General Fund appropriation in fiscal year 2000-2001 is $312,000 grant funds for the World War II

War Memorial in Washington, D. C.

4. SECRETARY OF STATE

	2000-01	2001-02
General Fund	2,425,100	2,491,400
Restricted Funds	154,000	165,000
Total	2,579,100	2,656,400

In accordance with the provision of KRS 14.140, at the close of fiscal year 1999-2000, any Restricted Funds amount received in the Limited Liability Companies program in excess of $154,000 shall be transferred to the General Fund. At the close of fiscal year 2000-2001, any Restricted Funds amount received in the Limited Liability Companies program in excess of $165,000 shall be transferred to the General Fund.

5. BOARD OF ELECTIONS

	2000-01	2001-02
General Fund	3,542,500	3,945,600
Restricted Funds	40,000	60,000
Total	3,582,500	4,005,600

Included in the above General Fund appropriation is $2,126,800 in fiscal year 2000-2001 and $2,461,000 in fiscal year 2001-02 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Included in the above General Fund appropriation, and subject to passage of enabling legislation, $150,000 is appropriated in fiscal year 2000-2001 and $152,700 in fiscal year 2001-2002 to provide an increase to all eligible precincts for election expenses. Additionally, as part of this legislation, the recommended maximum state payment rate is increased from the current level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 and KRS 117.343 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $4,000 in fiscal year 2000-2001 to pay the expense incurred every year of a Presidential election. In accordance with KRS 118.455 the state is required to pay per diem and mileage costs to each elector of President and Vice President of the United States, for each day they are at the State Capitol as an elector.

Special elections and additional precincts created by redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700).

6. TREASURY

	2000-01	2001-02
General Fund	2,239,200	2,402,000
Restricted Funds	791,900	731,900
Total	3,031,100	3,133,900

Included in the Restricted Funds appropriation above is a nonrevenue recurring transfer from the Unclaimed Property Fund. In each year of the 2000-2002 biennium, $731,900 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

7. ATTORNEY GENERAL

	2000-01	2001-02
General Fund	13,066,000	13,751,400
Restricted Funds	7,542,300	7,796,900
Federal Funds	2,494,300	2,584,000
Total	23,102,600	24,132,300

Included in the above Restricted Funds appropriation is $119,400 in fiscal year 2000-2001 and $123,000 in fiscal year 2001-2002 for debt service in the Uninsured Employers Fund related to court-ordered interest payments in workers' compensation settlement cases.

8. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2000-01	2001-02
General Fund	22,058,300	23,509,700
Restricted Funds	322,500	179,900
Federal Funds	629,200	608,300

Total	23,010,000	24,297,900

Included in the above General Fund appropriation is $564,700 in fiscal year 2000-2001 and $592,900 in fiscal year 2001-2002 to allow part-time Commonwealth's Attorneys to become full-time.

Notwithstanding KRS 15.757(2), a circuit may revert to part-time status at the option of a newly elected Commonwealth's Attorney if the circuit has been authorized to become full-time effective on or after January 1, 2001, based upon a request from the part-time Commonwealth's Attorney who does not seek reelection for the term beginning January 1, 2001, and the newly elected Commonwealth's attorney notifies the Prosecutors Advisory Council on or before November 15, 2000.

Included in the above General Fund appropriation is $208,500 in fiscal year 2000-2001 and $627,100 in fiscal year 2001-2002 for salary improvements. No funds shall be expended for salary improvements until the Prosecutors Advisory Council reviews the salary levels of the elected Commonwealth's Attorneys' employees, establishes a salary enhancement plan, and reports its findings to the Interim Joint Committee on Appropriations and Revenue.

Included in the above General Fund appropriation is $336,000 in each fiscal year to provide each Commonwealth's Attorney of the state the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that each Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.755(6).

b. County Attorneys

	2000-01	2001-02
General Fund	19,772,000	21,085,200
Restricted Funds	42,600	40,400
Federal Funds	251,900	264,100
Total	20,066,500	21,389,700

Included in the above General Fund appropriation is $163,900 in fiscal year 2000-2001 and $533,900 in fiscal year 2001-2002 for salary improvements. No funds shall be expended for salary improvements until the Prosecutors Advisory Council reviews the salary levels of the elected County Attorneys' employees, establishes a salary enhancement plan, and reports its findings to the Interim Joint Committee on Appropriations and Revenue.

Included in the above General Fund appropriation is $360,000 in each fiscal year to provide each County Attorney of the state the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth, notwithstanding KRS 15.765(2).

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2000-01	2001-02
General Fund	41,830,300	44,594,900
Restricted Funds	365,100	220,300
Federal Funds	881,100	872,400
TOTAL	43,076,500	45,687,600

9. AUDITOR OF PUBLIC ACCOUNTS

	2000-01	2001-02
General Fund	5,775,400	5,911,600
Restricted Funds	4,709,000	4,405,000
Total	10,484,400	10,316,600

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

10. AGRICULTURE

	2000-01	2001-02
General Fund	23,616,500	24,655,600
Restricted Funds	2,636,500	2,791,300
Federal Funds	2,035,000	2,034,800
Total	28,288,000	29,481,700

Notwithstanding KRS 251.650, Restricted Funds are appropriated in the amounts of $50,000 in fiscal year 2000-2001 and $50,000 in fiscal year 2001-2002 to support fairs and shows.

Notwithstanding KRS 251.650, Restricted Funds are appropriated in the amounts of $200,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 to support the aquaculture program at Kentucky State University.

Notwithstanding KRS 251.640, no fees shall be assessed by the Department of Agriculture until such time as the amount in the fund drops below $2,000,000.

Included in the above General Fund appropriation is $2,516,000 in fiscal year 2000-2001 and $2,516,000 in fiscal year 2001-2002 for new debt service to fund the Purchase Agriculture Conservation Easement program.

Included in the above General Fund appropriation is $500,000 in fiscal year 2000-2001 and $500,000 in fiscal year 2001-2002 to fund grants to local governments and humane societies. Included in the fiscal year 2000-2001 appropriation is $100,000 for the Corbin Regional Animal Shelter.

Included in the above General Fund appropriation is $800,000 in each fiscal year to support agriculture programs at regional universities, to be equally distributed to Eastern Kentucky University, Western Kentucky University, Morehead State University, and Murray State University.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended funds for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $500,000 in each fiscal year for the Youth Tobacco Enforcement Program pursuant to KRS 438.330 and KRS 438.335. The Department of Alcoholic Beverage Control shall jointly participate in the program's enforcement.

11. MILITARY AFFAIRS

	1999-2000	2000-01	2001-02
General Fund		10,849,500	11,220,300
Restricted Funds	2,000,000	16,695,200	17,055,100
Federal Funds		9,175,000	9,395,200
Total	2,000,000	36,719,700	37,670,600

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is an additional amount of $100,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 for Disaster and Emergency Management County Offices.

Included in the above General Fund appropriation is $23,000 in fiscal year 2001-2002 for debt service.

12. PERSONNEL BOARD

	2000-01	2001-02
General Fund	583,600	595,400
Restricted Funds	5,000	6,100
Total	588,600	601,500

13. LOCAL GOVERNMENT

	1999-2000	2000-01	2001-02
General Fund		11,452,900	12,189,300
Restricted Funds		665,400	671,400
Federal Funds	175,000	47,080,800	44,080,800
Total	175,000	59,199,100	56,941,500

Included in the above General Fund appropriation is $606,000 in fiscal year 2001-2002 for debt service.

14. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2000-01	2001-02
General Fund	27,375,600	28,996,400

Provided in the above General Fund appropriation is an additional $500,000 in fiscal year 2001-2002 to be distributed in accordance with KRS 42.455.

b. Local Government Economic Development Fund

	2000-01	2001-02
General Fund	33,305,300	36,708,600

The above appropriations from the General Fund are based on the official estimate of the Secretary of the Finance and Administration Cabinet for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of forty-one percent (40%) effective July 1, 2000, and forty-four percent (44%) effective July 1, 2001, notwithstanding provisions set forth in KRS 42.4582. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,420,000 in fiscal year 2000-2001 and $1,379,500 in fiscal year 2001-2002 has been credited to the Osteopathic Scholarship program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2000-2001 and $1,000,000 in fiscal year 2001-2002 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4585, effective July 1, 2001, the amount transferred annually from the Local Government Economic Development Fund (LGEDF) into the Local Government Economic Assistance Fund (LGEAF) under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen percent (14%) of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $461,000 in fiscal year 2000-2001 and $472,000 in fiscal year 2001-2002 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $358,000 in fiscal year 2000-2001 and $367,000 in fiscal year 2001-2002 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $880,000 in fiscal year 2000-2001 and $811,000 in fiscal year 2001-2002, has been transferred as Restricted Funds to the Coal County Development Office within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $537,600 in fiscal year 2000-2001 and $550,500 in fiscal year 2001-2002 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $938,300 in fiscal year 2000-2001 and $960,800 in fiscal year 2001-2002 has been credited to the Secondary Wood Products Development Fund in each year of the biennium.

Notwithstanding KRS 42.4588(2) and (4), beginning in fiscal year 1999-2000 and continuing in fiscal year 2000-2001 and fiscal year 2001-2002, twenty percent (20%) of the payments from the following LGEDF counties will be set aside for job training grants within coal counties: Bell, Boyd, Breathitt, Carter, Clay, Daviess, Floyd, Harlan, Henderson, Hopkins, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, McLean, Magoffin, Martin, Muhlenberg, Ohio, Owsley, Perry, Pike, Union, Webster, Whitley, and Wolfe. Union County will not participate in the program in fiscal year 1999-2000. The Coal County Development office will administer the job training grant program.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 1999-2000 to fiscal year 2000-2001 and from fiscal year 2000-2001 to fiscal year 2001-2002 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2000-01	2001-02
General Fund	2,000,000	2,000,000

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2000-01	2001-02
General Fund	62,680,900	67,705,000

15. COMMISSION ON HUMAN RIGHTS

	1999-2000	2000-01	2001-02
General Fund		2,036,000	2,088,300
Restricted Funds		12,000	12,400
Federal Funds	181,000	129,400	170,800
Total	181,000	2,177,400	2,271,500

16. COMMISSION ON WOMEN

	2000-01	2001-02
General Fund	262,500	269,900
Restricted Funds		3,200
Federal Funds	100	100
Total Funds	262,600	273,200

17. KENTUCKY RETIREMENT SYSTEMS

	2000-01	2001-02
Restricted Funds	11,713,400	13,863,000

18. REGISTRY OF ELECTION FINANCE

	2000-01	2001-02
General Fund	3,482,900	3,557,200
Restricted Funds	200,000	20,000
Total	3,682,900	3,577,200

Notwithstanding KRS 45.229, $1,000,000 of the General Fund appropriation from fiscal year 1999-2000 shall not lapse and shall carry forward to fiscal year 2000-2001 and $3,000,000 of the General Fund appropriation above from fiscal year 2000-2001 shall not lapse and shall carry forward into fiscal year 2001-2002 for the Election Campaign Fund.

19. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2000-01	2001-02
Restricted Funds	782,300	723,900

b. Alcohol and Drug Counselors

	2000-01	2001-02
Restricted Funds	78,300	89,700

c. Board of Architects

	2000-01	2001-02
Restricted Funds	204,700	218,800

d. Board of Art Therapists

	2000-01	2001-02
Restricted Funds	9,600	11,100

e. Kentucky Athletic Commission

	2000-01	2001-02
Restricted Funds	118,700	130,900

f. Board of Auctioneers

	2000-01	2001-02
Restricted Funds	340,600	351,000

g. Board of Barbering

	2000-01	2001-02

Restricted Funds	210,700	209,000

h. Board of Chiropractic Examiners

	2000-01	2001-02
Restricted Funds	162,400	173,800

i. Board of Dentistry

	2000-01	2001-02
Restricted Funds	436,300	461,500

j. Board of Dietitians and Nutritionists

	2000-01	2001-02
Restricted Funds	58,800	68,000

k. Board of Embalmers and Funeral Directors

	2000-01	2001-02
Restricted Funds	202,400	209,900

l. Board of Engineers and Land Surveyors

	2000-01	2001-02
Restricted Funds	1,092,400	1,134,100

m. Board of Fee-Based Pastoral Counselors

	2000-01	2001-02
Restricted Funds	17,200	20,600

n. Board of Geologists

	2000-01	2001-02
Restricted Funds	142,600	155,800

o. Board of Hairdressers and Cosmetologists

	2000-01	2001-02
Restricted Funds	981,800	1,041,300

p. Board of Hearing Instrument Specialists

	2000-01	2001-02
Restricted Funds	53,000	61,100

q. Board of Interpreters for Deaf and Hard of Hearing

	2000-01	2001-02
Restricted Funds	71,400	79,500

r. Board of Landscape Architects

	2000-01	2001-02
Restricted Funds	51,800	54,200

s. Board of Marriage and Family

	2000-01	2001-02
Restricted Funds	64,100	72,500

t. Board of Medical Licensure

	2000-01	2001-02
Restricted Funds	1,759,200	1,827,300

u. Board of Nursing

	2000-01	2001-02
Restricted Funds	3,277,700	3,354,100

Included in the above Restricted Funds appropriation is $200,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2000-01	2001-02
Restricted Funds	85,000	89,000

w. Board of Occupational Therapy

	2000-01	2001-02
Restricted Funds	66,800	76,600

x. Board of Ophthalmic Dispensers

	2000-01	2001-02
Restricted Funds	46,800	55,200

y. Board of Optometric Examiners

	2000-01	2001-02
Restricted Funds	146,700	143,800

z. Board of Pharmacy

	2000-01	2001-02
Restricted Funds	752,800	786,600

aa. Board of Physical Therapy

	2000-01	2001-02
Restricted Funds	297,800	301,100

ab. Board of Podiatry

	2000-01	2001-02
Restricted Funds	13,500	13,500

ac. Board of Professional Counselors

	2000-01	2001-02
Restricted Funds	42,000	46,800

ad. Board of Psychology

	2000-01	2001-02
Restricted Funds	195,600	207,900

ae. Real Estate Appraisers Board

	2000-01	2001-02
Restricted Funds	495,500	511,700

af. Real Estate Commission

	2000-01	2001-02
Restricted Funds	1,888,800	1,911,400

Included in the above Restricted Funds appropriation is $797,500 in fiscal year 2000-2001 and $800,000 in fiscal year 2001-2002 for Real Estate Education and Recovery.

ag. Board of Respiratory Care

	2000-01	2001-02
Restricted Funds	100,600	111,300

ah. Board of Social Workers

	2000-01	2001-02
Restricted Funds	123,000	140,000

ai. Board of Speech Pathologists and Audiologists

	2000-01	2001-02
Restricted Funds	96,900	109,000

aj. Board of Veterinary Examiners

	2000-01	2001-02
Restricted Funds	175,000	197,900

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2000-01	2001-02
Restricted Funds	14,642,800	15,149,900

20. GOVERNMENTAL SERVICES CENTER

	2000-01	2001-02
Restricted Funds	1,478,000	1,512,000

21. EXECUTIVE BRANCH ETHICS COMMISSION

	2000-01	2001-02
General Fund	295,000	310,000
Restricted Funds	6,000	10,000
Total	301,000	320,000

22. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2000-01	2001-02
General Fund	31,000,000	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 1999-2000 or fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal years 2000-2001 and 2001-2002, respectively.

b. Attorney General Expense

	1999-00	2000-01	2001-02
General Fund	470,000	225,000	225,000

c. Board of Claims Awards

	2000-01	2001-02
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $1,500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2000-01	2001-02
General Fund	2,000,000	2,000,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2000-01	2001-02
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2000-01	2001-02
General Fund	500,000	500,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2000-01	2001-02
General Fund	50,000	50,000

h. Frankfort in Lieu of Taxes

	2000-01	2001-02
General Fund	195,000	195,000

i. Frankfort Cemetery

	2000-01	2001-02
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2000-01	2001-02
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2000-01	2001-02
General Fund	240,000	264,000

l. Master Commissioner--Social Security

	2000-01	2001-02
General Fund	216,000	226,000

m. Workers' Compensation

	2000-01	2001-02
General Fund	288,000	288,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2000-01	2001-02
General Fund	50,000	50,000

o. Blanket Employee Bonds

General Fund	200,000	-0-

TOTAL - MISCELLANEOUS APPROPRIATIONS

	1999-00	2000-01	2001-02
General Fund	470,000	36,216,500	5,050,500

Included in the above appropriations is $0 in fiscal year 2000-2001 and $0 in fiscal year 2001-2002 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

TOTAL - GOVERNMENT OPERATIONS

	1999-00	2000-01	2001-02
General Fund	670,000	359,573,900	290,445,200
Restricted Funds		144,563,100	153,290,400
Federal Funds		62,169,100	59,399,800
Road Funds		125,000	125,000
TOTAL	670,000	559,793,500	496,134,800

B. CABINET FOR ECONOMIC DEVELOPMENT

23. a. Secretary

	2000-01	2001-02
General Fund	1,955,000	1,392,000
Restricted Funds	3,063,000	2,900,000
Total	5,018,000	4,292,000

Included in the above Restricted Funds appropriation is $461,000 in fiscal year 2000-2001 and $472,000 in fiscal year 2001-2002 for the East Kentucky Jobs Creation Corporation and $358,000 in fiscal year 2000-2001 and $367,000 in fiscal year 2001-2002 for the West Kentucky Jobs Creation Corporation. Both Corporations are required to submit a quarterly financial and status report to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue. Also included in the above Restricted Funds appropriation is $880,000 in fiscal year 2000-2001 and $811,000 in fiscal year 2001-2002 for the Coal County Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office will be funded from the Local

Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 for the Kentucky Technology Service Grant program each fiscal year of the biennium.

Included in the Restricted Funds appropriation above is $381,000 in fiscal year 2000-2001 and $381,000 in fiscal year 2001-2002 for the Louisville Waterfront Development Corporation.

Included in the above General Fund appropriation is $250,000 in fiscal year 2000-2001 for the Strategic Technology Capacity Initiative Study. Notwithstanding KRS 45.229, any funds remaining at the end of fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal year 2001-2002.

Included in the above General Fund appropriation is $350,000 in fiscal year 2000-2001 that will be used to support the Manufacturing Modernization Project that is part of the Knowledge-Based Economy Initiative embodied in House Bill 572 as considered by the 2000 Regular Session of the General Assembly. Notwithstanding KRS 45.229, any funds remaining at the end of fiscal year 2000-2001 shall not lapse but shall be carried forward into fiscal year 2001-2002.

Included in the Restricted Funds appropriation above is $683,000 in fiscal year 2000-2001 and $569,000 in fiscal year 2001-2002 for the Office of Commissioner for the New Economy.

b. Administration and Support

	2000-01	2001-02
General Fund	2,104,500	2,198,700
Restricted Funds	160,000	160,000
Total	2,264,500	2,358,700

c. Business Development

	2000-01	2001-02
General Fund	2,503,400	2,571,800

d. Financial Incentives

	2000-01	2001-02
General Fund	3,669,400	3,693,200
Restricted Funds	1,768,000	1,834,000
Total	5,437,400	5,527,200

The General Fund appropriation for fiscal year 1999-2000 and for fiscal year 2000-2001 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded, shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

e. Community Development

	2000-01	2001-02
General Fund	2,951,100	3,068,100
Restricted Funds	188,000	456,000
Federal Funds	160,000	160,000
Total	3,299,100	3,684,100

f. Debt Service

	2000-01	2001-02
General Fund		612,000

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2000-01	2001-02
General Fund	13,183,400	13,535,800
Restricted Funds	5,179,000	5,350,000

Federal Funds	160,000	160,000
TOTAL	18,522,400	19,045,800

C. EDUCATION

24. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2000-01	2001-02
General Fund	2,208,786,300	2,236,293,600

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,572,050,600 in fiscal year 2000-2001 and $1,594,762,000 in fiscal year 2001-2002 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $194,322,200 in fiscal year 2000-2001 and $198,876,200 in fiscal year 2001-2002 for pupil transportation, notwithstanding KRS 157.360(2)(c).

Included in the above appropriation is $125,929,500 in fiscal year 2000-2001 and $121,121,800 in fiscal year 2001-2002 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,381,200 in fiscal year 2000-2001 and $2,416,900 in fiscal year 2001-2002 for vocational transportation.

Included in the above appropriation is $20,468,500 in fiscal year 2000-2001 and $21,452,600 in fiscal year 2001-2002 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $47,640,800 in fiscal year 2000-2001 and $44,809,300 in fiscal year 2001-2002 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $245,993,500 in fiscal year 2000-2001 and $252,854,800 in fiscal year 2001-2002 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

b. Executive Policy and Management

	2000-01	2001-02
General Fund	2,637,700	2,676,900
Restricted Funds	427,200	425,400
Federal Funds	538,600	551,500
Total	3,603,500	3,653,800

c. Management Support Services

	2000-01	2001-02
General Fund	393,299,900	428,319,300
Restricted Funds	3,090,500	2,989,500
Federal Funds	172,455,500	176,555,400
Total	568,845,900	607,864,200

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2000-2001 and $15,000,000 in fiscal year 2001-2002 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in each fiscal year for reimbursement to local school districts for the Out-of-District Children Program.

Included in the above General Fund appropriation is $261,274,800 in fiscal year 2000-2001 and $289,848,100 in fiscal year 2001-2002 to provide health and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $2,463,700 in fiscal year 2000-2001 and $2,522,900 in fiscal year 2001-2002 to enable the Department of Education to provide the employer match for qualified employees as provided by KRS 161.550.

Included in the above General Fund appropriation is $1,278,000 in fiscal year 2001-2002 for debt service on new projects.

Included in the above General Fund appropriation is $1,500,000 in each fiscal year for the Community Education Program.

d. Learning Support Services

	1999-00	2000-01	2001-02
General Fund	865,400	186,460,800	191,607,700
Restricted Funds		3,604,200	3,571,300
Federal Funds		292,032,300	298,881,900
Total	865,400	482,097,300	494,060,900

Included in the above General Fund appropriation is $10,000,000 in each fiscal year for the school rewards escrow account. The above General Fund appropriation includes $40,000 in fiscal year 2000-2001 and $40,000 in fiscal year 2001-2002 for the Kentucky Headstart Collaboration Project. These funds, as well as $150,000 in Federal Funds in each fiscal year, shall be transferred to the Governor's Office of Early Childhood Development. The above General Fund appropriation includes $3,850,000 in fiscal year 2000-2001 and $3,850,000 in fiscal year 2001-2002 for technical education equalization. These funds shall not be expended prior to the development of specific criteria for equalization of funding for Level III programs offered by vocational/technical schools operated by local school districts and evaluation by the Workforce Development Cabinet of programs for which funding equalization is requested. Also included in the above General Fund appropriation is $5,742,200 in fiscal year 2000-2001 and $5,974,800 in fiscal year 2001-2002 for the Kentucky School for the Blind, and $9,226,500 in fiscal year 2000-2001 and $9,668,300 in fiscal year 2001-2002 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $50,000 in each fiscal year to support a Community After School Program in local school district number 441. Also included in the above General Fund appropriation is $50,000 in each fiscal year to support a Community After School Program in local school district number 365.

TOTAL - EDUCATION

	1999-00	2000-01	2001-02
General Fund	865,400	2,791,184,700	2,858,897,500
Restricted Funds		7,121,900	6,986,200
Federal Funds		465,026,400	475,988,800
TOTAL	865,400	3,263,333,000	3,341,872,500

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

25. OFFICE OF THE SECRETARY

	2000-01	2001-02
General Fund	2,729,500	2,801,500
Restricted Funds	70,400	70,400
Total	2,799,900	2,871,900

Included in the above General Fund appropriation is $4,100 in fiscal year 2000-2001 and $4,200 in fiscal year 2001-2002 for operating expenses related to the Martin Luther King Jr. Commission.

Included in the above General Fund appropriation is $1,191,400 in fiscal year 2000-2001 and $1,220,000 in fiscal year 2001-2002 for the Governor's Scholars Program.

Included in the above General Fund appropriation is $400,000 in fiscal year 2000-2001 and $405,000 in fiscal year 2001-2002 for the Governor's School for the Arts.

26. KENTUCKY ARTS COUNCIL

	2000-01	2001-02
General Fund	4,801,700	4,895,500
Restricted Funds	448,500	456,500
Federal Funds	600,000	611,300
Total	5,850,200	5,963,300

27. TEACHERS' RETIREMENT SYSTEM

	2000-01	2001-02
General Fund	75,829,500	82,222,300
Restricted Funds	5,696,400	6,021,000
Total	81,525,900	88,243,300

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.550.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers'

Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2000-2001 or fiscal year 2001-2002 for the cost of administration.

Included in the above General Fund appropriation is $2,311,500 in fiscal year 2000-2001 and $5,925,000 in fiscal year 2001-2002 to provide, when combined with the annual one and one-half percent (1.5%) retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent (2.3%) in fiscal year 2000-2001 and an additional two and one-half percent (2.5%) in fiscal year 2001-2002.

Included in the above General Fund appropriation is $3,698,800 in fiscal year 2000-2001 and $7,886,400 in fiscal year 2001-2002 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2000-2002 biennium.

28. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2000-01	2001-02
General Fund	72,145,200	79,030,500

Included in the above General Fund appropriation is $70,107,700 in fiscal year 2000-2001 and $70,687,300 in fiscal year 2001-2002 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $1,800,000 in fiscal year 2000-2001 and $8,100,000 in fiscal year 2001-2002 for debt service for previously authorized bonds.

The School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2000-2002 biennium in anticipation of debt service availability during the 2002-2004 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2000-2002 biennium.

29. DEAF AND HARD OF HEARING

	2000-01	2001-02
General Fund	875,700	898,600
Restricted Funds	200,000	200,000
Total	1,075,700	1,098,600

30. KENTUCKY HERITAGE COUNCIL

	2000-01	2001-02
General Fund	978,100	977,600
Restricted Funds	246,800	256,300
Federal Funds	795,800	795,800
Total	2,020,700	2,029,700

Included in the above General Fund appropriation is $50,000 in fiscal year 2000-2001 for Underground Railroad research and documentation.

31. KENTUCKY EDUCATIONAL TELEVISION

	2000-01	2001-02
General Fund	15,141,900	17,063,300
Restricted Funds	1,146,300	1,226,500
Federal Funds	700,000	700,000
Total	16,988,200	18,989,800

Included in the above General Fund appropriation is $1,564,000 in fiscal year 2001-2002 for debt service on new projects.

32. KENTUCKY HISTORICAL SOCIETY

	2000-01	2001-02
General Fund	6,196,200	6,438,700
Restricted Funds	521,400	643,400
Federal Funds	111,100	413,100
Total	6,828,700	7,495,200

33. LIBRARIES AND ARCHIVES

a. General Operations

	2000-01	2001-02
General Fund	6,796,100	7,688,300
Restricted Funds	1,822,600	1,879,700
Federal Funds	1,684,900	1,724,700
Total	10,303,600	11,292,700

Included in the above General Fund appropriation is $255,000 in fiscal year 2001-2002 for debt service on new projects.

b. Direct Local Aid

	2000-01	2001-02
General Fund	6,675,500	6,675,500
Restricted Funds	9,000	9,000
Federal Funds	576,000	576,000
Total	7,260,500	7,260,500

Included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of seventy-three cents, notwithstanding KRS 171.201.

TOTAL - LIBRARIES AND ARCHIVES

	2000-01	2001-02
General Fund	13,471,600	14,363,800
Restricted Funds	1,831,600	1,888,700
Federal Funds	2,260,900	2,300,700
Total	17,564,100	18,553,200

34. KENTUCKY CENTER FOR THE ARTS

	2000-01	2001-02
General Fund	640,500	655,900

35. ENVIRONMENTAL EDUCATION COUNCIL

	2000-01	2001-02
Restricted Funds	150,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2000-01	2001-02
General Fund	192,809,900	209,347,700
Restricted Funds	10,311,400	10,912,800
Federal Funds	4,467,800	4,820,900
TOTAL	207,589,100	225,081,400

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

36. COMMUNITY BASED SERVICES

	2000-01	2001-02
General Fund	283,608,600	300,691,200
Restricted Funds	93,280,100	98,711,000
Federal Funds	432,526,900	445,517,700
Total	809,415,600	844,919,900

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

Due to the demands placed upon the Cabinet to meet the increasing participation rates required for welfare reform, and in order to meet the state match requirements for the Welfare to Work Program, any General Fund appropriation unexpended in fiscal year 1999-2000 of up to $8,500,000 and in fiscal year 2000-2001 of up to $2,500,000 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act.

37. ADMINISTRATION SERVICES

	2000-01	2001-02
General Fund	30,439,400	31,231,100

Restricted Funds	4,183,400	4,168,700
Federal Funds	36,047,700	37,636,000
Total	70,670,500	73,035,800

Included in the above General Fund appropriation is $226,800 in fiscal year 2000-2001 and $232,200 in fiscal year 2001-2002, and in the Federal Funds appropriation is $2,970,700 in fiscal year 2000-2001 and $2,978,400 in fiscal year 2001-2002 for the Kentucky Commission on Community Volunteerism and Service which was transferred from the Council on Postsecondary Education to the Cabinet for Families and Children by Executive Order 2000-8.

Included in the above General Fund appropriation is $69,000 in fiscal year 2001-2002 for debt service.

38. DISABILITY DETERMINATIONS

	2000-01	2001-02
Restricted Funds	74,000	75,800
Federal Funds	37,418,900	38,559,100
Total Funds	37,492,900	38,634,900

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2000-01	2001-02
General Fund	314,048,000	331,922,300
Restricted Funds	97,537,500	102,955,500
Federal Funds	505,993,500	521,712,800
Total	917,579,000	956,590,600

F. FINANCE AND ADMINISTRATION CABINET

39. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2000-01	2001-02
General Fund	12,267,800	12,438,400
Restricted Funds	3,484,000	3,644,000
Federal Funds	58,148,000	58,197,000
Total	73,899,800	74,279,400

Included in the above General Fund appropriation is $200,000 in fiscal year 2000-2001 and $200,000 in fiscal year 2001-2002 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

b. Debt Service

	2000-01	2001-02
General Fund	218,214,000	238,015,000
Road Fund	3,665,000	3,668,000
Total	221,879,000	241,683,000

Included in the above General Fund appropriation is $7,387,000 in fiscal year 2000-2001 and $26,844,000 in fiscal year 2001-2002 for new debt service.

c. Administration

	2000-01	2001-02
General Fund	3,776,100	3,789,600
Restricted Funds	9,039,000	9,121,000
Road Fund	277,000	283,000
Total	13,092,100	13,193,600

d. Facilities Management

	2000-01	2001-02
General Fund	8,598,300	8,822,300
Restricted Funds	20,634,000	21,014,000
Total	29,232,300	29,836,300

e. County Costs

	1999-00	2000-01	2001-02
General Fund	1,632,000	18,899,000	20,881,000
Restricted Funds		1,327,000	1,327,000
Total	1,632,000	20,226,000	22,208,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 2000-2001 and $5,431,000 in fiscal year 2001-2002 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

f. County Fees

	1999-00	2000-01	2001-02
Restricted Funds	16,154,100	71,212,900	74,664,400

TOTAL - FINANCE AND ADMINISTRATION CABINET

		2000-01	2001-02
General Fund	1,632,000	261,755,200	283,946,300
Restricted Funds	16,154,100	105,696,900	109,770,400
Federal Funds		58,148,000	58,197,000
Road Fund		3,942,000	3,951,000
TOTAL	17,786,100	429,542,100	455,864,700

G. CABINET FOR HEALTH SERVICES

Budget Units

40. MEDICAID SERVICES

a. Administration

	2000-01	2001-02
General Fund	17,323,700	18,079,900
Restricted Funds	10,981,000	10,811,600
Federal Funds	28,635,800	28,516,900
Total	56,940,500	57,408,400

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management to:

(1) Establish a new program;

(2) Expand the services of an existing program; or

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management.

b. Benefits

	2000-01	2001-02
General Fund	707,895,000	763,493,300
Restricted Funds	226,448,500	213,744,900
Federal Funds	2,253,554,300	2,354,579,300
Total	3,187,897,800	3,331,817,500

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Any General Fund appropriation unexpended in fiscal years 1999-2000 and 2000-2001 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for Medicaid Benefits, an amount up to $4,000,000 may be used for Medicaid Administration, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management. Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management.

41. PUBLIC HEALTH

	1999-00	2000-01	2001-02
General Fund		78,659,200	84,387,800
Restricted Funds		12,830,200	15,427,900
Federal Funds	437,500	122,036,400	122,032,300
Total	437,500	213,525,800	221,848,000

Notwithstanding other provisions to the contrary, the Secretary shall promulgate such administrative regulations as may be required to prescribe user fee amounts which are provided in the applicable agency fund appropriations.

42. MENTAL HEALTH/MENTAL RETARDATION

	2000-01	2001-02
General Fund	171,531,200	182,213,900
Restricted Funds	146,559,800	153,172,900
Federal Funds	45,587,300	45,723,600
Total	363,678,300	381,110,400

Included in the above General Fund appropriation is $646,000 in fiscal year 2001-2002 for debt service on new projects.

43. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2000-01	2001-02
General Fund	7,043,800	6,781,400
Restricted Funds	3,495,100	3,179,000
Federal Funds	4,668,800	4,669,000
Total	15,207,700	14,629,400

44. CERTIFICATE OF NEED

	2000-01	2001-02
Restricted Funds	462,600	484,700

45. AGING SERVICES

	2000-01	2001-02
General Fund	25,019,800	25,584,200
Restricted Funds	4,965,500	5,471,300
Federal Funds	17,153,800	17,148,600
Total	47,139,100	48,204,100

46. ADMINISTRATIVE SUPPORT

	2000-01	2001-02
General Fund	10,018,100	10,352,100
Restricted Funds	7,056,000	7,876,500
Federal Funds	10,561,800	10,618,200
Total	27,635,900	28,846,800

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

The enacted fiscal year 1999-2000 appropriation in House Bill 321 (1998 Ky. Acts ch. 615) includes $65,700 from the General Fund which is authorized to be provided to the new Office of Women's Health, which is being established within the Administrative Support appropriation unit in accordance with KRS 194A.095, from the Office of Certificate of Need.

Included in the above General Fund appropriation is $384,000 in fiscal year 2001-2002 for debt service on new projects.

TOTAL - CABINET FOR HEALTH SERVICES

	2000-01	2001-02
General Fund	1,017,490,800	1,090,892,600

Restricted Funds		412,798,700	410,168,800
Federal Funds	437,500	2,482,198,200	2,583,287,900
TOTAL	437,500	3,912,487,700	4,084,349,300

H. JUSTICE CABINET

47. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2000-01	2001-02
General Fund	7,788,900	7,664,100
Restricted Funds	1,657,400	1,619,000
Federal Funds	13,087,800	13,087,800
Total	22,534,100	22,399,500

Included in the above General Fund appropriation is $1,106,400 in fiscal year 2000-2001 and $1,133,000 in fiscal year 2001-2002 for operation of the State Parole Board.

Included in the above General Fund appropriation is $1,500,000 in each fiscal year to provide free civil legal services for indigents.

Included within the above Restricted Funds appropriation is $330,000 in fiscal year 2000-2001 and $330,000 in fiscal year 2001-2002 to support the Criminal Justice Council. These Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF). Any provisions to the contrary codified in KRS 15.430, 42.190, or 136.392 are suspended.

Included in the above General Fund appropriation is $125,000 in fiscal year 2000-2001 and $125,000 in fiscal year 2001-2002 for the Urban League of Lexington-Fayette County Construction Training Project.

b. State Police

	2000-01	2001-02
General Fund	81,836,200	89,633,100
Restricted Funds	5,431,900	5,274,800
Road Fund	30,000,000	30,000,000
Federal Funds	9,960,600	8,144,700
Total	127,228,700	133,052,600

Included in the above General Fund appropriation is $271,000 in fiscal year 2001-2002 for new debt service to fund the portion of the Unified Criminal Justice Information System related to the State Police database operations.

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2000-01	2001-02
Restricted Funds	31,768,900	33,432,500
Federal Funds	1,190,000	1,190,000
Total	32,958,900	34,622,500

Included in the above appropriation is $19,537,000 in fiscal year 2000-2001 and $19,985,200 in fiscal year 2001-2002 for training incentive payments pursuant to KRS 15.430 and KRS 15.440 from receipts pursuant to KRS 136.392. Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $716,400 in fiscal year 2000-2001 and $733,200 in fiscal year 2001-2002 for an increase in training incentive payments to each participant. The increase equates to $100 per qualified individual in fiscal year 2000-2001 for a total of $3,100 in fiscal year 2000-2001 and $3,100 in fiscal year 2001-2002 for each participant.

Also included in the appropriation above is $3,165,000 for debt service in fiscal year 2000-2001 and $3,165,000 in fiscal year 2001-2002 for bonds previously issued. New debt service in the amount of $777,000 in fiscal year 2001-2002 is appropriated and included above for a new Law Enforcement Physical Training Facility on the campus of Eastern Kentucky University.

Notwithstanding KRS 15.430, 42.190, or 136.392, funds unexpended at the end of fiscal year 1999-2000 and fiscal year 2000-2001 shall not lapse but shall be carried forward into the following fiscal year.

d. Juvenile Justice

	2000-01	2001-02
General Fund	76,638,000	92,788,000
Restricted Funds	16,789,800	18,550,000
Federal Funds	19,812,000	19,312,000
Total	113,239,800	130,650,000

Included in the above General Fund appropriation is $2,925,000 in fiscal year 2001-2002 for debt service for the construction of a secure juvenile detention facility in Fayette County, a combined residential/detention facility in Hardin County, an educational building addition at Woodsbend Youth Development Center in Morgan County, and a 100-bed replacement facility for three existing juvenile treatment centers in Jefferson County.

TOTAL - JUSTICE OPERATIONS

	2000-01	2001-02
General Fund	166,263,100	190,085,200
Restricted Funds	56,648,000	58,904,900
Road Fund	30,000,000	30,000,000
Federal Funds	44,050,400	41,734,500
Total	295,961,500	320,724,600

48. CORRECTIONS

Budget Units

a. Corrections Management

	2000-01	2001-02
General Fund	15,123,400	28,492,700
Restricted Funds	12,679,100	13,241,200
Federal Funds	1,224,400	224,500
Total	29,026,900	41,958,400

Included in the above General Fund appropriation is $12,211,000 in fiscal year 2001-2002 for new debt service related to renovation or construction of correctional facilities.

b. Community Services and Local Facilities

	2000-01	2001-02
General Fund	73,994,600	80,272,300
Restricted Funds	625,000	625,000
Total	74,619,600	80,897,300

c. Adult Correctional Institutions

	2000-01	2001-02
General Fund	182,603,000	193,764,500
Restricted Funds	4,428,800	4,458,600
Federal Funds	150,000	150,000
Total	187,181,800	198,373,100

d. Local Jail Support

	2000-01	2001-02
General Fund	14,918,100	15,276,100

Included in the General Fund appropriation is $909,300 in fiscal year 2000-2001 and $931,100 in fiscal year 2001-2002 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $307,200 in fiscal year 2000-2001 and $314,600 in fiscal year 2001-2002 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2000-01	2001-02

General Fund	286,639,100	317,805,600
Restricted Funds	17,732,900	18,324,800
Federal Funds	1,374,400	374,500
Total	305,746,400	336,504,900

TOTAL - JUSTICE CABINET

	2000-01	2001-02
General Fund	452,902,200	507,890,800
Restricted Funds	73,380,900	77,229,700
Federal Funds	45,424,800	42,109,000
Road Fund	30,000,000	30,000,000
TOTAL	601,707,900	657,229,500

I. LABOR

49. LABOR CABINET

Budget Units

a. General Administration and Support

	2000-01	2001-02
General Fund	545,600	558,700
Restricted Funds	5,291,800	5,384,200
Total	5,837,400	5,942,900

b. Workplace Standards

	2000-01	2001-02
General Fund	2,024,800	2,080,700
Restricted Funds	131,541,200	130,275,200
Federal Funds	3,453,000	3,453,000
Total	137,019,000	135,808,900

c. Workers' Claims

	2000-01	2001-02
Restricted Funds	14,942,300	15,806,800

d. Kentucky Occupational Safety and Health Review Commission

	2000-01	2001-02
Restricted Funds	429,800	443,100

TOTAL - LABOR CABINET

	2000-01	2001-02
General Fund	2,570,400	2,639,400
Restricted Funds	152,205,100	151,909,300
Federal Funds	3,453,000	3,453,000
TOTAL	158,228,500	158,001,700

Budget Unit

50. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2000-01	2001-02
General Fund	19,000,000	19,000,000
Restricted Funds	135,957,600	136,075,500
Total	154,957,600	155,075,500

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amounts of $793,600 in fiscal year 2000-2001 and $854,000 in fiscal year 2001-2002 shall be transferred to Mines and Minerals.

TOTAL - LABOR

	2000-01	2001-02

General Fund	21,570,400	21,639,400
Restricted Funds	288,162,700	287,984,800
Federal Funds	3,453,000	3,453,000
TOTAL	313,186,100	313,077,200

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

51. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2000-01	2001-02
General Fund	9,365,300	9,655,800
Restricted Funds	443,100	426,600
Federal Funds	1,758,000	1,826,500
Total	11,566,400	11,908,900

b. Environmental Protection

	2000-01	2001-02
General Fund	23,430,500	24,230,100
Restricted Funds	20,834,300	21,391,100
Federal Funds	17,807,300	17,904,600
Total	62,072,100	63,525,800

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above General Fund appropriation is $206,000 in fiscal year 2001-2002 in debt service for a $2,000,000 new bond authorization for state-owned dam repairs.

c. Natural Resources

	1999-2000	2000-01	2001-02
General Fund	694,800	14,192,800	15,341,400
Restricted Funds		5,198,000	5,215,100
Federal Funds		4,032,900	3,768,600
Total	694,800	23,423,700	24,325,100

Included in the above General Fund appropriation is $705,000 in fiscal year 2001-2002 for debt service for $5,604,000 in new bond authorizations. This appropriation provides $416,000 for debt service to support Bonds totaling $4,100,000 for the Black Mountain Preservation Project and $289,000 for debt service to support Bonds totaling $1,504,000 for the Forestry Radio Equipment.

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2000-01	2001-02
General Fund	10,263,500	10,754,800
Restricted Funds	6,184,000	6,533,900
Federal Funds	16,245,500	16,719,600
Total	32,693,000	34,008,300

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department, subject to the conditions and procedures of this Act.

e. Abandoned Mine Land Reclamation Projects

	2000-01	2001-02
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	1999-2000	2000-01	2001-02
General Fund	694,800	57,252,100	59,982,100
Restricted Funds		32,659,400	33,566,700
Federal Funds		61,843,700	62,219,300
TOTAL	694,800	151,755,200	155,768,100

Budget Units

52. KENTUCKY RIVER AUTHORITY

	2000-01	2001-02
General Fund	377,900	543,000
Restricted Funds	1,345,600	1,579,900
Total	1,723,500	2,122,900

Included in the above Restricted Funds appropriation is $203,000 in fiscal year 2000-2001 and $406,000 in fiscal year 2001-2002 for debt service for $4,000,000 in previously authorized bonds for the Water Release System and Lock 6 Repairs. General Fund debt service funds of $156,000 is included in fiscal year 2001-2002 to support Bond Funds totaling $1,500,000.

53. ENVIRONMENTAL QUALITY COMMISSION

	2000-01	2001-02
General Fund	267,000	258,200
Restricted Funds	6,600	1,000
Total	273,600	259,200

54. KENTUCKY NATURE PRESERVES COMMISSION

	2000-01	2001-02
General Fund	918,500	931,700
Restricted Funds	338,300	321,700
Federal Funds	25,000	25,000
Total	1,281,800	1,278,400

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	1999-2000	2000-01	2001-02
General Fund	694,800	58,815,500	61,715,000
Restricted Funds		34,349,900	35,469,300
Federal Funds		61,868,700	62,244,300
TOTAL	694,800	155,034,100	159,428,600

K. PERSONNEL CABINET

55. PERSONNEL CABINET

Budget Units

a. General Operations

	1999-00	2000-01	2001-02
General Fund	7,000,000	3,430,600	3,920,200
Restricted Funds	4,000,000	10,293,100	10,386,000
Total	11,000,000	13,723,700	14,306,200

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect $5.00 per month per employee eligible for health insurance coverage in the state group for those agencies utilizing the state payroll system and $4.00 per employee eligible for health insurance coverage in the state group utilizing their own payroll system from all employers of state employees defined in KRS 18A.225(1)(b) for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program. Members of the state group utilizing the state payroll system will pay $5.00 per month beginning January 1, 2000.

Included in the above General Fund appropriation is $389,000 in fiscal year 2001-2002 for debt service on a new personnel payroll system.

b. Public Employees Deferred Compensation Authority

	2000-01	2001-02
Restricted Funds	4,915,600	5,740,700

c. Workers' Compensation Benefits and Reserve

	2000-01	2001-02
Restricted Funds	15,382,700	15,901,500

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	1999-00	2000-01	2001-02
General Fund	7,000,000	3,430,600	3,920,200
Restricted Funds	4,000,000	30,591,400	32,028,200
TOTAL	11,000,000	34,022,000	35,948,400

L. POSTSECONDARY EDUCATION

Budget Units

56. COUNCIL ON POSTSECONDARY EDUCATION

	2000-01	2001-02
General Fund	64,228,800	137,638,400
Restricted Funds	3,785,900	5,380,100
Federal Funds	1,100,000	1,100,000
Total	69,114,700	144,118,500

The General Assembly reaffirms its commitment to the spirit, intent, and goals of the Kentucky Postsecondary Education Improvement Act of 1997. The General Assembly recognizes the continued need to provide improved access to postsecondary education for all of Kentucky's citizens. The General Assembly continues to encourage collaboration among all of the state postsecondary institutions. The General Assembly supports the budget recommendations on the Council on Postsecondary Education.

Included in the above appropriation is $6,564,600 in fiscal year 2000-2001 and $2,626,200 in fiscal year 2001-2002 for the Environmental Program to Stimulate Competitive Research (EPSCoR) program. Notwithstanding the provisions of KRS 45.229, funding for the EPSCoR program in fiscal year 2000-2001 not to exceed $2,000,000 shall continue into fiscal year 2001-2002 for this purpose.

Included in the above General Fund appropriation is $43,655,000 in fiscal year 2000-2001 and $120,730,000 in fiscal year 2001-2002 for the Strategic Investment and Incentive Funding Program as established by the Postsecondary Education Improvement Act of 1997.

The following trust funds and dollar amounts make up the Strategic Investment and Incentive Trust Funding Program for fiscal year 2000-2001 and 2001-2002. Included in the above appropriation is $5,055,000 in fiscal year 2000-01 and $9,380,000 in fiscal year 2001-2002 for the Research Challenge Trust Fund. Included in the above appropriation is $15,700,000 in fiscal year 2001-2002 for the Regional University Excellence Trust Fund. Included in the above appropriation in fiscal year 2001-2002 is $7,500,000 for the Technology Initiative Trust Fund. Included in the above appropriation is $20,900,000 in fiscal year 2001-2002 for the Physical Facilities Trust Fund. Included in the above appropriation is $8,000,000 in fiscal year 2000-2001 and $15,000,000 in fiscal year 2001-2002 for the Postsecondary Workforce Development Trust Fund. Included in the above appropriation is $22,350,000 in fiscal year 2000-2001 and $37,500,000 in fiscal year 2001-2002 for the Student Financial Aid and Advancement Trust Fund. Included in the above appropriation is $7,000,000 in fiscal year 2000-2001 and $12,000,000 in fiscal year 2001-2002 for the Adult Education and Literacy Trust Fund. Included in the above appropriation is $4,250,000 in fiscal year 2001-2002 for the Science and Technology Trust Fund.

Included in the above appropriation for the Research Challenge Trust Fund is $5,055,000 in fiscal year 2000-2001 and $6,080,000 in fiscal year 2001-2002 for lung cancer research, and $3,300,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program. Notwithstanding the provisions of KRS 164.7917(1)(b) and (c), the guidelines regarding matching requirements and distribution of funding to the University of Kentucky and the University of Louisville shall be made by the Council on Postsecondary Education.

Included in the above appropriation for the Regional University Excellence Trust Fund is $5,700,000 in fiscal year 2001-

2002 for the Enrollment Growth and Retention Program that, notwithstanding the provisions of KRS 164.7919(1)(b) and (c), will be distributed based on guidelines developed by the Council on Postsecondary Education. Included in the above appropriation for the Regional University Excellence Trust Fund is $10,000,000 in fiscal year 2001-2002 for the Action Agenda Program that shall be allocated among the comprehensive universities as prescribed by KRS 164.7919(1)(b). The Council on Postsecondary Education is encouraged to allocate $4,000,000 of the Action Agenda Program funding to initiatives addressing issues of teacher quality, pre-service training and in-service professional development, as identified by the recommendations of the Teacher Quality Task Force.

Included in the above General Fund appropriation for the Technology Initiative Trust Fund is $3,800,000 in fiscal year 2001-2002 for debt service for the Equipment Replacement Pool authorized in Part II, $1,200,000 in fiscal year 2001-2002 for expansion of Communications Network Infrastructure used by postsecondary education and $1,000,000 in fiscal year 2001-2002 for the Faculty Development Program.

Included in the above appropriation for the Physical Facilities Trust Fund is $3,018,000 in fiscal year 2001-2002 for debt service to support the Capital Renewal and Maintenance Pool authorized in Part II, $10,436,000 in fiscal year 2001-2002 for debt service to support Renovation, Replacement and Infrastructure Projects at various institutions as authorized in Part II, and $7,446,000 in fiscal year 2001-2002 for debt service to support New Construction Projects as authorized in Part II.

Included in the above appropriations for the Student Financial Aid and Advancement Trust Fund is $22,350,000 in fiscal year 2000-2001 and $37,500,000 in fiscal year 2001-2002 to meet the funding requirements of Senate Bill 21 as enacted by the 1998 General Assembly. Notwithstanding the provisions of Senate Bill 21 as enacted by the 1998 General Assembly, funding in excess of the scholarship requirements may be used for the Kentucky National Guard Tuition Assistance Program, the Council on Postsecondary Education Contract Spaces Program, and the Council on Postsecondary Education Public Communication Campaign. Merit scholarship dollars for the Kentucky Educational Excellence Scholarship (KEES) program will be made available to all students who qualify in accordance with the provisions of Senate Bill 21 as enacted by the 1998 General Assembly as the highest priority use of these funds.

Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $7,000,000 in fiscal year 2001-2002 for the Enrollment Growth and Retention Program that will be distributed based on guidelines developed by the Council on Postsecondary Education. Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $6,000,000 in fiscal year 2000-2001 and $6,000,000 in fiscal year 2001-2002 for the Workforce Training Program. Funding for the Workforce Training Program shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College System (KCTCS) program offerings. The Council on Postsecondary Education is encouraged to allocate up to $2,000,000 each year of the Workforce Training Program appropriations for high-tech training consistent with the proposed Knowledge Based Economy Initiative. Included in the above appropriations for the Postsecondary Workforce Development Trust Fund is $2,000,000 in each year to continue implementation of the administrative information software systems necessary for KCTCS to function as an institution in the Kentucky system of postsecondary education.

Appropriations to the Science and Technology Trust Fund are provided to implement the recommendations included in the Kentucky Science and Technology Strategy developed by the Kentucky Science and Technology Corporation for which responsibility is assigned to the Council on Postsecondary Education. Included in the above appropriation for the Science and Technology Trust Fund is $3,000,000 in fiscal year 2001-2002 to support advanced scientific research at all the universities to be allocated by the Council on Postsecondary Education. Included in the above appropriation for the Science and Technology Trust Fund is $750,000 in fiscal year 2001-2002 for technology transfer of research into marketable products. Included in the above appropriation for the Science and Technology Trust Fund is $500,000 in fiscal year 2001-2002 for the establishment of regional postsecondary-based corporations to help rural industries access new markets.

Included in the above appropriation for the Science and Technology Trust Fund is $250,000 in fiscal year 2000-2001 that is designated to be used to conduct an entrepreneurial audit, which will be used to develop the Knowledge-Based Economy Initiative embodied in House Bill 572 as considered by the 2000 Regular Session of the General Assembly. Included in the above appropriation for the Science and Technology Trust Fund is $1,000,000 in fiscal year 2000-2001 that is designated to be used to support the rural innovation fund that is part of the Knowledge-Based Economy Initiative.

Included in the above appropriations for the Adult Education and Literacy Trust Fund is $2,000,000 in fiscal year 2000-2001 and $2,000,000 in fiscal year 2001-2002 to support county and regional strategies, statewide initiatives, and research and development activities. Included in the above appropriations for the Adult Education and Literacy Trust Fund is $5,000,000 in fiscal year 2000-2001 and $10,000,000 in fiscal year 2001-2002 for additional services as determined by the statewide strategic agenda to be developed by the Council on Postsecondary Education in collaboration with the Department for Adult Education and Literacy. Funding in the Adult Education and Literacy Trust Fund shall be used to fund the $250 per semester tuition discount scholarships for eligible students as provided in proposed legislation. Included in the above appropriations for the Adult Education and Literacy Trust Fund is $225,000 in fiscal year 2000-2001 and $232,000 in fiscal year 2001-2002 for new staff positions in the Council on Postsecondary Education to fulfill responsibilities assigned in proposed legislation.

57. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2000-01	2001-02

General Fund	50,500,000	50,789,000
Restricted Funds	36,565,300	46,507,900
Federal Funds	1,100,000	1,200,000
Total	88,165,300	98,496,900

Included in the above General Fund appropriation is $1,983,300 in fiscal year 2000-2001 and $2,022,500 in fiscal year 2000-2002 for the Teacher's Scholarship Program. Included in the above Restricted Funds appropriation is $1,000,000 each fiscal year for the Kentucky Higher Education Assistance Authority's Work Study Program.

Included in the above General Fund appropriation is $14,304,000 in fiscal year 2000-2001 and $14,400,000 in fiscal year 2001-2002 for the Kentucky Tuition Grant program.

Included in the above General Fund appropriation is $1,420,000 in fiscal year 2000-2001 and $1,379,500 in fiscal year 2001-2002 for the Osteopathic Medicine Scholarship. Notwithstanding KRS 164.7891, scholarships will be computed in both years based on the average public school tuition cost.

Included in the above Restricted Funds appropriation is $696,000 in fiscal year 2000-2001 and $721,200 in fiscal year 2001-2002 for administrative costs associated with the Kentucky Educational Excellence Scholarship.

The Kentucky Educational Excellence Scholarship (KEES) program is appropriated $16,193,500 in fiscal year 2000-2001 and $24,556,900 in fiscal year 2001-2002 from Restricted Funds. In the 2000-2002 biennium, funds from the Merit Scholarship Trust Fund shall also be used for other programs. The Secretary of Finance shall assure, however, that the KEES program will be made available to all students who qualify in accordance with the provisions of Senate Bill 21 as enacted by the 1998 Regular Session of the General Assembly as a highest priority use of the funds. In the event that the actual dollars realized are insufficient to fund all of the programs funded through the Merit Scholarship Fund, the Secretary shall determine how the funds shall be allocated among the remaining programs after the KEES obligation has been met with the second highest priority accorded to full funding of the Contract Spaces Program in the Council on Postsecondary Education.

Included in the above Restricted Funds appropriation is $1,736,000 in fiscal year 2000-2001 and $1,972,900 in fiscal year 2001-2002 for the National Guard Tuition program. These funds are derived from the Merit Scholarship program.

Included in the above General Fund appropriation is $1,400,000 in fiscal year 2000-2001 and $1,409,500 in fiscal year 2001-2002, and Federal Funds support totaling $600,000 in fiscal year 2000-2001 and $700,000 in fiscal year 2001-2002 for the Early Childhood Scholarship Program. These General Fund appropriations are derived from the Phase I Tobacco Settlement.

Included in the above General Fund appropriation is $33,376,000 in fiscal year 2000-2001 and $33,600,000 in fiscal year 2001-2002 for the College Access Program.

Nothing in the foregoing shall be construed to limit the Authority's capability to use these funds to match Federal Funds, make grant awards, or promulgate administrative regulations that conform to requirements of federal laws and regulations for full participation in federally funded student financial assistance programs.

The General Fund appropriation shall be used solely for the purpose of making awards to students.

Any General Fund appropriation to the Kentucky Higher Education Assistance Authority that is unexpended in fiscal years 1999-2000 or 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

Included in the above Restricted Funds appropriation is $906,000 in fiscal year 2001-2002 for debt service for the previously authorized new Kentucky Higher Education Assistance Authority building.

58. EASTERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	67,192,100	72,235,200
Restricted Funds	87,345,700	91,149,300
Federal Funds	32,194,100	33,349,800
Total	186,731,900	196,734,300

Included in the above General Fund appropriation is $3,427,800 in fiscal year 2000-2001 and $4,325,200 in fiscal year 2001-2002 for debt service for previously issued bonds.

59. KENTUCKY STATE UNIVERSITY

	2000-01	2001-02
General Fund	21,864,700	22,717,900
Restricted Funds	17,181,800	18,332,300
Federal Funds	12,527,900	12,828,700
Total	51,574,400	53,878,900

Included in the above General Fund appropriation is $2,236,500 in fiscal year 2000-2001 and $2,244,500 in fiscal year 2001-2002 for debt service for previously issued bonds.

60. MOREHEAD STATE UNIVERSITY

	2000-01	2001-02
General Fund	40,017,000	40,500,700
Restricted Funds	39,385,000	41,158,700
Federal Funds	33,664,200	35,973,100
Total	113,066,200	117,632,500

Included in the above General Fund appropriation is $2,138,500 in fiscal year 2000-2001 and $884,200 in fiscal year 2001-2002 for debt service for previously issued bonds.

61. MURRAY STATE UNIVERSITY

	2000-01	2001-02
General Fund	47,514,400	50,537,100
Restricted Funds	52,018,600	53,972,400
Federal Funds	7,782,100	8,137,700
Total	107,315,100	112,647,200

Included in the above General Fund appropriation is $1,163,400 in fiscal year 2000-2001 and $1,886,300 in fiscal year 2001-2002 for debt service for previously issued bonds.

62. NORTHERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	39,730,100	44,114,100
Restricted Funds	57,123,800	60,333,300
Federal Funds	6,457,300	6,457,300
Total	103,311,200	110,904,700

Included in the above General Fund appropriation is $5,033,500 in fiscal year 2000-2001 and $5,043,000 in fiscal year 2001-2002 for debt service for previously issued bonds.

63. UNIVERSITY OF KENTUCKY

	2000-01	2001-02
General Fund	307,750,800	322,429,400
Restricted Funds	764,923,800	786,522,500
Federal Funds	90,943,600	92,677,100
Total	1,163,618,200	1,201,629,500

Included in the above General Fund appropriation is $11,242,200 in fiscal year 2000-2001 and $11,285,500 in fiscal year 2001-2002 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $7,812.700 in fiscal year 2000-2001 and $8,488,000 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above Restricted Funds appropriation is $12,458,700 in fiscal year 2000-2001 and $12,944,800 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $4.281,800 in fiscal year 2000-2001 and $4,297,300 in fiscal year 2001-2002 to support the operations of the Lexington Community College.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 2000. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

64. UNIVERSITY OF LOUISVILLE

	2000-01	2001-02
General Fund	172,153,200	179,478,800
Restricted Funds	265,936,700	270,892,800
Federal Funds	28,166,200	28,842,100

Total	466,256,100	479,213,700

Included in the above General Fund appropriation is $11,316,600 in fiscal year 2000-2001 and $11,331,500 in fiscal year 2001-2002 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $16,540,200 in fiscal year 2000-2001 and $17,052,900 in fiscal year 2001-2002 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2001-2002.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 2000. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

65. WESTERN KENTUCKY UNIVERSITY

	2000-01	2001-02
General Fund	63,957,000	66,563,300
Restricted Funds	74,472,800	81,219,000
Federal Funds	26,191,200	31,992,000
Total	164,621,000	179,774,300

Included in the above General Fund appropriation is $3,944,100 in fiscal year 2000-2001 and $2,592,600 in fiscal year 2001-2002 for debt service for previously issued bonds.

66. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2000-01	2001-02
General Fund	169,785,700	184,204,900
Restricted Funds	103,788,300	109,093,600
Federal Funds	67,872,800	69,501,700
Total	341,446,800	362,800,200

Included in the above General Fund appropriation is $10,678,100 in fiscal year 2000-2001 and $10,712,900 in fiscal year 2001-2002 for debt service for previously issued bonds.

TOTAL - POSTSECONDARY EDUCATION

	2000-01	2001-02
General Fund	1,044,693,800	1,171,209,300
Restricted Funds	1,502,527,700	1,564,561,900
Federal Funds	307,999,400	322,059,500
TOTAL	2,855,220,900	3,057,830,700

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

67. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2000-01	2001-02
General Fund	692,500	622,700
Restricted Funds	2,111,800	2,097,100
Federal Funds	400,000	425,900
Total	3,204,300	3,145,700

68. ALCOHOLIC BEVERAGE CONTROL

	1999-00	2000-01	2001-02
General Fund		1,447,700	1,441,800
Restricted Funds	57,200	4,542,900	4,609,400
Federal Funds		532,900	558,400

Total	57,200	6,523,500	6,609,600

The Department shall receive funds from the Department of Agriculture and cooperate with the Department of Agriculture in order to implement laws relating to the sale and use of tobacco products, pursuant to KRS 438.330.

69. FINANCIAL INSTITUTIONS

	2000-01	2001-02
Restricted Funds	8,841,600	9,075,400

Included in the above appropriation is a transfer of $900,000 in each fiscal year to the General Fund, notwithstanding KRS 287.485.

70. KENTUCKY RACING COMMISSION

	2000-01	2001-02
General Fund	389,500	422,800
Restricted Funds	14,504,100	14,147,200
Total	14,893,600	14,570,000

71. HOUSING, BUILDINGS AND CONSTRUCTION

	2000-01	2001-02
General Fund	3,631,100	3,804,000
Restricted Funds	31,719,500	32,096,500
Total	35,350,600	35,900,500

Under the provisions of the Firefighters Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified firefighter's annual base salary from the Firefighters Foundation Program Fund, to be paid to each firefighter in addition to his or her regular salary as prescribed by KRS 95A.250. The supplemental payments per qualified professional firefighter shall increase to $3,100 in fiscal year 2000-2001, which is continued in fiscal year 2001-2002. Notwithstanding KRS 136.392, the power of the Secretary of the Revenue Cabinet to adjust the insurance surcharge rate is suspended. Notwithstanding KRS 42.190 and 95A.220(2), all funds remaining at the end of fiscal year 1999-2000 and fiscal year 2000-2001 in accounts established pursuant to KRS 95A.220(1) and 95A.262 shall not lapse.

72. INSURANCE

a. General Operations

	2000-01	2001-02
General Fund	17,692,500	21,280,000
Restricted Funds	16,543,200	17,760,300
Total	34,235,700	39,040,300

b. Health Purchasing Alliance

	2000-01	2001-02
Restricted Funds	377,500	377,400
TOTAL - INSURANCE	34,613,200	39,417,700

73. MINES AND MINERALS

	2000-01	2001-02
General Fund	9,762,000	9,913,100
Restricted Funds	1,741,500	1,919,000
Federal Funds	589,500	589,200
Total	12,093,000	12,421,300

Notwithstanding KRS 353.590, the following fee shall be charged: oil gas permit tranfer - $25.

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amounts of $793,600 in fiscal year 2000-2001 and $854,000 in fiscal year 2001-2002 shall be transferred to Mines and Minerals.

74. PUBLIC ADVOCACY

	1999-00	2000-01	2001-02
General Fund	745,500	22,380,000	24,821,100
Restricted Funds		2,984,100	2,972,600
Federal Funds		908,400	953,800

Total	745,500	26,272,500	28,747,500

75. PUBLIC SERVICE COMMISSION

	2000-01	2001-02
General Fund	10,636,700	11,009,700
Restricted Funds	24,000	24,000
Federal Funds	215,500	225,500
Total	10,876,200	11,259,200

Included in the above General Fund appropriation is $589,000 in each fiscal year for debt service on bonds for the new office building authorized by the 1996 General Assembly.

Any General Fund appropriation to the Public Service Commission that is unexpended in fiscal years 1999-2000 or 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

76. SECRETARY

a. General Operations

	2000-01	2001-02
Restricted Funds	2,020,000	2,087,700

b. Petroleum Storage Tank Environmental Assurance Fund

	2000-01	2001-02
Restricted Funds	42,719,000	44,114,800
TOTAL - SECRETARY	44,739,000	46,202,500

77. BOARD OF TAX APPEALS

	2000-01	2001-02
General Fund	459,400	468,300

78. CHARITABLE GAMING

	2000-01	2001-02
Restricted Funds	3,229,700	3,307,900

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	1999-00	2000-01	2001-02
General Fund	745,500	67,091,000	73,783,500
Restricted Funds	57,200	131,358,900	134,589,300
Federal Funds		2,646,300	2,752,800
TOTAL	802,700	201,096,200	211,125,600

N. REVENUE

Budget Units

79. REVENUE CABINET

	2000-01	2001-02
General Fund	63,789,700	67,177,200
Restricted Funds	3,800,000	3,581,500
Road Fund	1,385,000	1,418,000
Total	69,328,700	72,176,700

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2000-2002 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, KRS 95A.220, and KRS 95A.262 in fiscal year 2000-2001 and fiscal year 2001-2002. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2000-2001 and 2001-2002 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund. Also included in the Revenue Cabinet's Restricted Funds appropriation is $90,000 in fiscal year 2000-2001 and

$290,000 in fiscal year 2001-2002 from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

80. PROPERTY VALUATION ADMINISTRATORS

	2000-01	2001-02
General Fund	25,048,200	26,368,800
Restricted Funds	3,240,500	3,271,900
Total	28,288,700	29,640,700

Notwithstanding the provisions of KRS 18A.110 to 18A.355 and KRS 61.510 to 61.705, included in the above Restricted Funds appropriation are funds to allow Property Valuation Administrators and their Deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

TOTAL - REVENUE CABINET

	2000-01	2001-02
General Fund	88,837,900	93,546,000
Restricted Funds	7,040,500	6,853,400
Road Fund	1,385,000	1,418,000
TOTAL	97,263,400	101,817,400

O. TOURISM DEVELOPMENT CABINET

Budget Units

81. OFFICE OF THE SECRETARY

	1999-00	2000-01	2001-02
General Fund		1,529,700	1,873,200
Restricted Funds	3,800		100,000
Total	3,800	1,529,700	1,973,200

Included in the General Fund appropriation is $270,000 in each fiscal year for Outdoor Drama Grants.

Pursuant to passage of enabling legislation, included in the General Fund appropriation is $200,000 in each fiscal year to establish and administer a Certified Retirement Community Program.

82. BREAKS INTERSTATE PARK

	2000-01	2001-02
General Fund	250,000	250,000

An appropriation up to $250,000 in each fiscal year is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount. Any portion not matched by the Commonwealth of Virginia shall lapse to the General Fund at the close of each fiscal year.

83. TRAVEL DEVELOPMENT

	1999-00	2000-01	2001-02
General Fund		7,237,300	7,427,000
Restricted Funds	20,600	4,000	4,000
Federal Funds	34,100		
Total	54,700	7,241,300	7,431,000

Included in the General Fund appropriation is $2,719,000 in fiscal year 2000-2001 and $2,784,000 in fiscal year 2001-2002 for the Comprehensive Advertising Contract and $800,000 in each fiscal year for the Local and Regional Matching Funds Program.

84. PARKS

	1999-00	2000-01	2001-02
General Fund		27,303,800	28,486,100
Restricted Funds	1,397,500	48,062,500	49,491,900
Total	1,397,500	75,366,300	77,978,000

Included in the above General Fund appropriation is $56,000 in fiscal year 2001-2002 for debt service.

Included in the above General Fund appropriation is $200,000 in fiscal year 2000-2001 for upgrades at White Hall State Historic Site and $10,000 in fiscal year 2000-2001 to preserve, fence, and advertise the Jenny Wiley burial site.

85. KENTUCKY HORSE PARK

	2000-01	2001-02
General Fund	1,378,000	1,680,700
Restricted Funds	4,917,000	4,960,100
Total	6,295,000	6,640,800

Included in the above General Fund appropriation is $43,000 in fiscal year 2001-2002 for debt service.

Included in the above General Fund appropriation is $12,000 each fiscal year to support settlement on Lease agreement.

86. KENTUCKY STATE FAIR BOARD

	2000-01	2001-02
General Fund	407,000	407,000
Restricted Funds	27,952,200	28,972,500
Total	28,359,200	29,379,500

Included in the Restricted Funds appropriation is $371,000 in each year of the biennium for debt service for Project 55.

Included in the General Fund appropriation is $407,000 in each year of the biennium for the North American International Livestock Exposition.

87. FISH AND WILDLIFE RESOURCES

	2000-01	2001-02
Restricted Funds	25,250,500	26,015,600
Federal Funds	7,000,000	7,000,000
Total	32,250,500	33,015,600

TOTAL-TOURISM DEVELOPMENT CABINET

	1999-00	2000-01	2001-02
General Fund		38,105,800	40,124,000
Restricted Funds	1,421,900	106,186,200	109,544,100
Federal Funds	34,100	7,000,000	7,000,000
TOTAL	1,456,000	151,292,000	156,668,100

P. TRANSPORTATION CABINET

88. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2000-01	2001-02
Restricted Funds	11,631,200	11,632,200
Federal Funds	209,000	209,000
Total	11,840,200	11,841,200

Notwithstanding KRS 183.525(5), the Restricted Fund appropriation above includes operational costs of the program.

b. Revenue Sharing

	2000-01	2001-02
Road Fund	217,866,000	222,637,800

1. Included in the above Road Fund appropriation is $82,403,500 in fiscal year 2000-2001 and $84,215,200 in fiscal year 2001-2002 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2000-2001 and $38,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $99,965,000 in fiscal year 2000-2001 and $102,162,800 in fiscal year 2001-2002 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2000-2001 and $46,000 in fiscal year 2001-2002 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $34,672,500 in fiscal year 2000-2001 and $35,434,800 in fiscal year 2001-2002 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2000-2001 and $16,000 in fiscal year 2001-2002 which has been

appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $825,000 in each fiscal year for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Rail Transportation

	2000-01	2001-02
General Fund	75,300	78,100

The above General Fund appropriation is for the Kentucky Railroad Commission.

d. Public Transportation

	2000-01	2001-02
General Fund	5,047,500	5,199,100
Restricted Funds	829,600	858,300
Federal Funds	7,740,000	8,044,000
Total	13,617,100	14,101,400

Included in the above General Fund appropriation is $2,750,000 in fiscal year 2000-2001 and $3,000,000 in fiscal year 2001-2002 for nonpublic school transportation.

e. Highways

	2000-01	2001-02
Restricted Funds	61,224,000	62,494,400
Federal Funds	486,500,000	495,300,000
Road Fund	691,578,000	793,112,100
Total	1,239,302,000	1,350,906,500

1. Included in the above Road Fund appropriation is $345,531,300 in fiscal year 2000-2001 and $437,586,800 in fiscal year 2001-2002 for the State Funded Construction Program.

Included in the State Funded Construction Program is $64,500,000 in fiscal year 2000-2001 and $66,000,000 in fiscal year 2001-2002 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $500,000 in each fiscal year from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction Program is $244,531,300 in fiscal year 2000-2001 and $334,086,800 in fiscal year 2001-2002 from the Road Fund for state construction projects in the 2000-2002 Biennial Highway Construction Program.

2. Projects in the enacted 1998-2000 Biennial Highway Construction Plan are so listed in order to continue their current authorization into the 2000-2002 biennium, and are reauthorized in this Act.

Included in the State Funded Construction Program is $36,000,000 in fiscal year 2000-2001 and $37,000,000 in fiscal year 2001-2002 for the Highway Construction Contingency Account.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2000-2001 and $290,000 in fiscal year 2001-2002 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in each fiscal year from the sale of surplus equipment to purchase new highway equipment.

f. Vehicle Regulation

	2000-01	2001-02
Restricted Funds	2,925,000	2,977,400
Federal Funds	2,225,000	2,225,000
Road Fund	29,926,300	31,649,300
Total	35,076,300	36,851,700

g. Debt Service

	2000-01	2001-02
Road Fund	167,275,700	169,854,300

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2000-2001 and $620,600 in fiscal year 2001-2002 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $36,066,600 in fiscal year 2000-2001 and $12,350,400 in fiscal year 2001-2002 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund

resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $130,588,500 in fiscal year 2000-2001 and $156,883,300 in fiscal year 2001-2002 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2000-2002 biennium.

h. General Administration and Support

	2000-01	2001-02
Restricted Funds	23,953,400	22,819,200
Road Fund	66,916,800	71,583,100
Total	90,870,200	94,402,300

Included in the above Road Fund appropriation is $6,852,000 in fiscal year 2000-2001 and $9,691,000 in fiscal year 2001-2002 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

i. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2001, shall not lapse and shall carry forward to fiscal year 2001-2002 and remain available throughout the 2000-2002 biennium.

TOTAL - TRANSPORTATION CABINET

	2000-01	2001-02
General Fund	5,122,800	5,277,200
Restricted Funds	100,563,200	100,781,500
Federal Funds	496,674,000	505,778,000
Road Fund	1,173,562,800	1,288,836,600
TOTAL	1,775,922,800	1,900,673,300

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

89. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	1999-00	2000-01	2001-02
General Fund		2,668,700	2,694,700
Restricted Funds	400,000	6,102,300	6,327,700
Federal Funds		614,000	288,200
Total	400,000	9,385,000	9,310,600

Included in the above General Fund appropriation is $700,000 in each fiscal year for operation of the School-to-Careers system. The Cabinet will have sole responsibility for the initiative, notwithstanding any provisions of KRS 151B.250, KRS 151B.255, KRS 158.760 and KRS 158.7603 to the contrary.

90. STATE BOARD FOR ADULT AND TECHNICAL EDUCATION

	2000-01	2001-02
General Fund	31,200	32,000

91. TECHNICAL EDUCATION

	2000-01	2001-02
General Fund	20,090,100	21,325,200
Restricted Funds	17,647,700	18,346,300
Federal Funds	10,338,400	10,369,200

Total	48,076,200	50,040,700

Included in the above General Fund appropriation is $1,807,500 in each fiscal year for equipment procurement.

Included in the above is $70,000 each fiscal year for a Secondary School Technology Program in Morgan County. Also included in the above is $70,000 each fiscal year for a Middle School Technology Program in Montgomery County.

92. ADULT EDUCATION AND LITERACY

	2000-01	2001-02
General Fund	11,005,200	11,360,300
Restricted Funds	83,300	74,300
Federal Funds	11,096,900	10,520,400
Total	22,185,400	21,955,000

93. VOCATIONAL REHABILITATION

	1999-00	2000-01	2001-02
General Fund		10,729,800	11,160,100
Restricted Funds	500,000	2,847,200	3,116,900
Federal Funds		38,341,700	39,242,200
Total	500,000	51,918,700	53,519,200

94. DEPARTMENT FOR THE BLIND

	2000-01	2001-02
General Fund	2,069,600	1,739,100
Restricted Funds	1,475,700	1,436,200
Federal Funds	7,231,900	7,502,400
Total	10,777,200	10,677,700

95. STATE BOARD FOR PROPRIETARY EDUCATION

	2000-01	2001-02
Restricted Funds	116,100	119,400

96. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2000-01	2001-02
General Fund	4,639,200	4,750,600

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

97. TRAINING AND REEMPLOYMENT

	1999-00	2000-01	2001-02
Restricted Funds	50,000	67,500	51,500
Federal Funds		62,768,200	58,762,000
Total	50,000	62,835,700	58,813,500

98. EMPLOYMENT SERVICES

	2000-01	2001-02
General Fund	613,500	628,200
Restricted Funds	14,544,700	11,832,000
Federal Funds	304,227,200	304,472,900
Total	319,385,400	316,933,100

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, the sum of $1,000,000 during the 2000-2002 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	1999-00	2000-01	2001-02
General Fund		51,847,300	53,690,200
Restricted Funds	950,000	42,884,500	41,304,300
Federal Funds		434,618,300	431,157,300
TOTAL	950,000	529,350,100	526,151,800

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2000-2002 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2000-01	2001-02
1. Treasury Department		
a. Laser Check Printers - Lease		
Capital Construction Surplus	248,000	248,000
2. Attorney General		
a. Capital Complex East Franklin County - Lease		
3. Unified Prosecutorial System		
a. Jefferson County - Lease		
4. Governor's Office for Technology		

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

	2000-01	2001-02
a. Statewide Microwave Network Maintenance		
Bond Funds	2,500,000	
b. Unified Criminal Justice System		
Bond Funds	4,585,000	
c. Maintaining the Kentucky Spatial Data Infrastructure		
Bond Funds	700,000	
Federal Funds	649,600	
Other Funds	100,000	
Total	1,449,600	
d. Kentucky Information Highway Upgrade/Expansion		
Restricted Funds	3,500,000	
e. Enterprise Server Complex Upgrade		
Restricted Funds	2,985,000	
f. Disk Storage Upgrade		
Restricted Funds	887,000	
g. Enterprise Server Complex Upgrade		
Restricted Funds	1,755,000	
h. Tape Storage Upgrade		
Restricted Funds	645,000	
i. Disk Storage Upgrade		
Restricted Funds	887,000	
j. Enterprise High-Speed Printer Replacement		
Restricted Funds	645,000	
k. Tape Storage Upgrade		
Restricted Funds	645,000	

	l.	Franklin County - Lease (100 Fair Oaks)			
5.	Department of Agriculture				
	a.	Large Truck Scale Unit			
		Restricted Funds	210,000		
	b.	Franklin County - Department of Agriculture Building Lease			
	c.	Rural Development Fund			
		Bond Funds		25,000,000	
6.	Department of Military Affairs				
	a.	Environmental Pool			
		Bond Funds		174,000	
		Federal Funds		635,000	
		Total		809,000	
	b.	Maintenance Pool - Bluegrass Station			
		Restricted Funds		200,000	700,000
	c.	Maintenance Pool			
		Investment Income		950,000	1,000,000
	d.	Aircraft Maintenance Pool			
		Investment Income		400,000	400,000
	e.	Runway/Parallel Taxiway Pavement/Apron Rehabilitation			
		Federal Funds		1,265,000	
		Capital Construction Surplus		141,000	
		Total		1,406,000	
7.	Governor's Office of Veterans' Affairs				
	a.	Eastern Kentucky Veterans' Center - Additional			
		Bond Funds		328,000	
		Federal Funds		1,056,000	
		Total		1,384,000	
	b.	Western Kentucky Veterans' Center - Additional			
		Bond Funds		229,000	
		Federal Funds		502,000	
		Total		731,000	
	c.	Western Kentucky Veterans' Cemetery			
		Federal Funds		2,725,000	
		Capital Construction Surplus		100,000	
		Total		2,825,000	
8.	Kentucky Retirement Systems				
	a.	Franklin County - Lease (Perimeter Park West Number One)			
	b.	Franklin County - Lease (Perimeter Park West Number Two)			
9.	Local Government				
				2000-2001	2001-2002
	a.	Renaissance Kentucky			
		Bond Funds		6,000,000	
	b.	Grant County Animal Shelter			
		General Fund		50,000	
	c.	City of Pleasureville Fire Department			
		General Fund		12,000	

d.	New Liberty Fire Department		
	General Fund		10,000
e.	Owen County Volunteer Fire Department		
	General Fund		10,000
f.	City of Ravenna Fire Department Building		
	General Fund		20,000
g.	City of Frankfort Log Cabin Restoration Project		
	General Fund		50,000
h.	Graves County DAV #106 Building Renovation and Property Acquisition		
	General Fund		25,000
i.	Corbin Regional Animal Shelter		
	General Fund	100,000	
j.	City of Irvine Fire Department Aerial Truck		
	General Fund		65,000

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit		2000-01	2001-02
1.	Economic Development Projects		
a.	Economic Development Bond Pool		
	Reauthorization ($32,203,000 - Bond Funds)		
	Bond Funds - Additional	4,000,000	

Included in the above appropriation are the following projects: Grayson Lake-Golf Course Development, $4,500,000; Southeast Kentucky Center for Business Technology and Innovation, Madison County, $4,000,000; South Central Kentucky Technology Center, Warren County, $4,000,000; Northeast Kentucky Regional Industrial Park Authority, East Park Industrial, Technology and Innovation Training Center, Boyd County, $2,000,000; Tourism Development Loan Program, $1,500,000; City of Prestonsburg sidewalks and mountain top project improvements, $1,000,000; Morgan County regional water lines, $1,000,000; and Blue Licks Lodge-Food service expansions and Daniel Boone Cabin Preservation, $750,000.

b.	High Tech Construction Pool		
	Restricted Funds	20,000,000	
c.	High Tech Investment Pool		
	Restricted Funds	20,000,000	
d.	Economic Opportunity Zones		
	Bond Funds	2,000,000	

Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.

C. EDUCATION

Budget Unit		2000-01	2001-02
1.	Department of Education		
a.	Kentucky School for the Deaf Fire Safety/Dorm Renovation		
	Bond Funds	1,250,000	
b.	Kentucky School for the Deaf Steam Line Replacement		
	Emergency Repair, Maintenance and Replacement Funds	1,700,000	
c.	Maintenance Pool		
	Investment Income	292,000	785,000
d.	Kentucky School for the Blind Roofing and Weatherproofing		
	Bond Funds	1,122,000	
e.	Kentucky School for the Deaf Roof Replacements		
	Bond Funds	850,000	
f.	Educational Professional Standards Board System Infrastructure/		

Database System		
Bond Funds	2,900,000	
g. Educational Professional Standards Board System Infrastructure		
Bond Funds	2,000,000	
h. Jackson County Area Vocational School		
Reauthorization		

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2000-01	2001-02
1. Libraries and Archives		
a. Document Management Digitization System		
Bond Funds	1,188,000	
b. Feasibility Study - New Archives Building		
Bond Funds	200,000	
2. Kentucky Educational Television		
a. DTV-HDTV Broadcast Transmission		
Bond Funds	12,700,000	
b. NTSC Transmitters		
Bond Funds	2,800,000	
3. Kentucky Center for the Arts		
a. Maintenance Pool		
Investment Income	150,000	150,000
4. Teachers' Retirement System		
a. Imaging System		
Reauthorization ($700,000 - Restricted Funds)		
5. School Facilities Construction Commission		
Bond Funds	92,000,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2000-01	2001-02
1. Administration Services		
a. Maintenance Pool		
Investment Income	300,000	525,000
b. L & N Building - Elevator Upgrade		
Deferred Maintenance	1,000,000	
c. Owensboro Office Building - HVAC and Interior Renovation		
Deferred Maintenance	1,500,000	
d. Children's Advocacy Centers		
Bond Funds	640,000	
e. Disability Determinations Client System Upgrade		
Federal Funds	300,000	
f. Various Leases - Eleven Counties		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2000-01	2001-02
1. General Administration		
a. Kentucky Infrastructure Authority - Wastewater Revolving Loan and Grant Fund-A (Wastewater Fund-A1; Water Supply Fund-A2)		
Reauthorization ($8,542,000 - Bond Funds)		
Bond Funds - Additional	7,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

b. KIA - Water Resources Development

Bond Funds	50,000,000

The Kentucky Infrastructure Authority may use funds available in the Infrastructure Revolving Fund to develop a program for construction of water projects. The Kentucky Infrastructure Authority shall establish project prioritization criteria which shall include consideration of whether the applicant has received written notice of a water system deficiency from the Natural Resources and Environmental Cabinet. All water projects to be funded in accordance with the above shall only be expended pursuant to the policies and procedures of the Kentucky Infrastructure Authority.

c. Kentucky Infrastructure Authority - Fund F Loans - Drinking Water

Reauthorization ($5,000,000 - Bond Funds)	—	
Bond Funds		6,000,000

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

d. Red Fox Golf Course
   Reauthorization ($5,400,000 - Multiple Funds)

e. Pike County Civic Center
   Reauthorization ($12,500,000 - Multiple Funds)

f. New Office Building - Alternative Construction

g. Meade County Waterline Extension
   Reauthorization ($2,500,000 - Restricted Funds)

h. Hindman Sewer Infrastructure
   Reauthorization ($3,000,000 - Restricted Funds)

i. Midway Wastewater Treatment Plant
   Reauthorization ($3,500,000 - Restricted Funds)

j. Richmond Sewer Infrastructure
   Reauthorization ($4,000,000 - Restricted Funds)

k. West Louisville Environmental Justice/Air Pollution Project
   Reauthorization ($300,000 - General Fund)

l. Estill County Board of Education Project
   Reauthorization ($75,000 - General Fund)

m. Kentucky Infrastructure Authority -
   Fund B Waterline/Sewer Grant Program

Restricted Funds	775,000

Notwithstanding KRS 224A.112, the Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance to the above Fund B projects, in the form of grants, totaling $650,000 to the Green River State Park-Horton Camp Infrastructure, $75,000 to the Fleming County Water Commission for the Multi-County Water Study; and $50,000 to the Fleming County Fiscal Court for the "201" Sewer Planning Study.

2. Department for Administration

For the major equipment purchases displayed in this section as Restricted Funds supported projects, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a. Two High Speed Inserters

Restricted Funds	600,000

b. Bar Code Printing and Sorting Equipment
   Reauthorization ($390,700 - Restricted Funds)

	c.	Network Publishing Equipment		
		Restricted Funds	581,000	
	d.	Franklin County - Lease (Postal Services)		
	e.	Franklin County - Lease (300 Myrtle Avenue)		
3.		Department for Facilities Management		
	a.	Kentucky State Capitol Complex - Historic Restoration Design Infrastructure		
		Bond Funds	19,125,000	
	b.	Kentucky History Center Area Restoration		
		Bond Funds	4,000,000	
	c.	Sprinkler Recall/Replacement		
		Bond Funds	1,500,000	
	d.	Statewide Property Acquisition/Demolition Fund		
		Bond Funds	5,000,000	
	e.	Elevator/Escalator Modernization - State Buildings		
		Deferred Maintenance	2,000,000	
	f.	Federally Mandated CFC Phaseout		
		Deferred Maintenance	1,000,000	
	g.	ADA Compliance		
		Deferred Maintenance	1,000,000	
	h.	Maintenance Pool - Statewide Deferred		
		Investment Income	1,000,000	
	i.	Capital Construction and Equipment Purchase Contingency Fund		
		Investment Income	2,000,000	
	j.	Emergency Repair, Maintenance, and Replacement Fund		
		Investment Income	714,000	
	k.	Maintenance Pool		
		Investment Income	3,375,000	3,875,000
		Restricted Funds	1,400,000	300,000
		Total	4,775,000	4,175,000
	l.	Transit Authority of River City - Light Rail Project		
		General Fund	820,000	820,000
4.		Lottery Corporation		
	a.	Contingency on Property		
		Other Funds	2,500,000	
	b.	Potential Buyout of On-Line Gaming System		
		Other Funds	18,450,000	
	c.	Probability Games Implementation		
		Other Funds	5,643,000	
	d.	Instant Ticket Machines		
		Other Funds	2,125,000	
	e.	Pull Tab Ticket Vending Machines		
		Other Funds	4,473,000	
	f.	Data Processing, Telecommunications and Related Equipment		
		Other Funds	3,750,000	
	g.	Upgrade to Distributed Processing Model		

Other Funds	150,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2000-01	2001-02
1. Department for Mental Health/Mental Retardation Services		
a. New Power Plant - Western State Hospital		
Bond Funds	3,880,000	
b. Boiler Replacement - Central State Hospital		
Bond Funds	2,457,000	
c. Miscellaneous Roof Replacement/Repair Pool		
Bond Funds	500,000	
d. Maintenance Pool		
Investment Income	700,000	1,840,000
e. Water Piping Replacement System - Eastern State Hospital		
Emergency Repair, Maintenance and Replacement Fund	850,000	
f. Statewide Chiller Replacement		
Emergency Repair, Maintenance and Replacement Fund	839,000	
g. Franklin County - Lease (Fair Oaks Building)		
2. Administrative Support		
a. Statewide Public Health System		
Bond Funds	2,000,000	
b. Children's Health Information System		
Capital Construction Surplus	1,200,000	

H. JUSTICE CABINET

Budget Unit	2000-01	2001-02
1. Department of State Police		
a. Maintenance Pool		
Investment Income	200,000	250,000
b. Unified Criminal Justice Information		
Bond Funds	1,402,000	
c. New Ion Coupled Plasma/Mass Spec. Trace Unit		
Capital Construction Surplus	330,000	
d. Facial Recognition Pilot Project - Unified Criminal Justice Information System		
Restricted Funds	150,300	
Federal Funds	451,000	
Total	601,300	
e. Mugshot Expansion - Sex Offender Registry System		
Federal Funds	519,000	
2. Department of Juvenile Justice		
a. Maintenance Pool		
Investment Income	400,000	500,000
b. Secure Juvenile Detention Center - Fayette County		

		Bond Funds	6,700,000	
	c.	Combined Residential/Detention Facility - Hardin County		
		Bond Funds	11,211,000	
	d.	Woodsbend Youth Development Center Education Addition - Morgan County		
		Bond Funds	1,101,000	
	e.	75-Bed Replacement Facility - Jefferson County		
		Bond Funds	10,000,000	
	f.	Morehead Youth Development Center Cottage Renovation		
		Restricted Funds	145,000	
		Federal Funds	1,300,000	
		Total	1,445,000	
	g.	Mayfield Youth Development Center Education Addition		
		Restricted Funds	110,000	
		Federal Funds	990,000	
		Total	1,100,000	
	h.	Owensboro Treatment Center Education Addition		
		Restricted Funds	110,000	
		Federal Funds	990,000	
		Total	1,100,000	
	i.	Green River Youth Development Center Education Addition - Butler County		
		Restricted Funds	60,000	
		Federal Funds	540,000	
		Total	600,000	
	j.	Secure Juvenile Detention Facility - Boyd County		
		Reauthorization ($5,357,000 - Bond Funds)		
		Federal Funds - Additional	700,000	
3.		Department of Criminal Justice Training		
	a.	Law Enforcement Basic Training Complex		
		Additional Funding		
		Agency Bond Funds	7,000,000	
4.		Department of Corrections		
	a.	Maintenance Pool		
		Investment Income	1,400,000	2,000,000
	b.	Kentucky State Reformatory - Exterior Stabilization of Administration Building		
		Emergency Repair, Maintenance and Replacement Fund	1,600,000	
	c.	Blackburn Correction Complex - Roof Replacement		
		Bond Funds	1,400,000	
	d.	New Medium Security Prison - Elliott County		
		Bond Funds	90,408,000	

Funds are appropriated in the above appropriation to facilitate connecting the prison to the upgraded wastewater treatment plant in the City of Sandy Hook.

e.	New Medium Security Prison - Design and Site Acquisition - Knott County		
	Bond Funds	17,200,000	
f.	Kentucky State Reformatory - New Gas Fired Boiler Plant		
	Bond Funds	7,000,000	
g.	Kentucky Correctional Institution for Women - Phase II Expansion - Design only		
	Bond Funds	900,000	
h.	Western Kentucky Correctional Complex - 44-Bed Segregation Unit		
	Bond Funds	4,300,000	
i.	Corr/Optical Imaging		
	Restricted Funds	560,000	536,000
j.	Kentucky State Reformatory - Two Transportation Buses		
	Restricted Funds	620,000	
k.	Correctional Industries Warehouse/Office Complex		
	Reauthorization	—	
l.	Jefferson County - Lease (Probation and Parole)		

I. LABOR CABINET

Budget Unit		2000-01	2001-02
1.	General Administration and Support		
a.	Franklin County - Lease		
2.	Workers' Claims		
a.	Franklin County - Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit		2000-01	2001-02
1.	General Administration and Support		
a.	Kentucky Heritage Land Conservation Fund - Reauthorization		
	Restricted Funds - Additional	5,160,000	5,160,000
b.	Maintenance Pool		
	Investment Income	100,000	115,000
2.	Department for Environmental Protection		
a.	State-Owned Dam Repair - Reauthorization		
	Bond Funds - Additional	2,000,000	
b.	State-Funded Leaking Underground Storage Tanks - Reauthorization		
	Restricted Funds - Additional	500,000	500,000
c.	Hazardous Waste Management Fund - Reauthorization		
	Restricted Funds - Additional	2,100,000	2,100,000
d.	Franklin County - Lease (Ash Properties)		
e.	Franklin County - Lease (Air Quality)		
f.	Maxey Flats Replacement Structures		
	Emergency, Repair, Maintenance and Replacement Fund	390,000	
3.	Department for Natural Resources		
a.	Black Mountain Preservation Project		
	Bond Funds	4,100,000	

b. Forestry Radio Equipment		
Bond Funds	1,504,000	
4. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease (Hudson Hollow)		
5. Kentucky River Authority		
a. Locks and Dams - Acquisition		
Reauthorization		
b. Kentucky River Parks		
Reauthorization		
c. Kentucky River Water Release System and Lock 6 Repairs -		
Reauthorization ($4,000,000 - Agency Bonds)		
d. Kentucky River Water Storage Enhancements		
Restricted Funds	2,270,000	
Bond Funds	1,500,000	
Total	3,770,000	
6. Kentucky Nature Preserves Commission		
a. Nature Preserves Acquisition Fund -		
Reauthorization		
Other Funds - Additional	300,000	300,000
Total	300,000	300,000

K. PERSONNEL CABINET

Budget Unit	2000-01	2001-02
1. Personnel		
a. Franklin County - Lease		
b. On-line Access to Employee Records		
Bond Funds	550,000	
c. New Personnel Payroll System		
Bond Funds	1,450,000	

L. POSTSECONDARY EDUCATION

Budget Unit	2000-01	2001-02
1. Council on Postsecondary Education		
a. Capital Renewal & Maintenance Pool		
Bond Funds	30,000,000	
b. Agency Bond Pool		
Agency Bonds	35,000,000	
c. Equipment Replacement Pool		
Bond Funds	20,000,000	
2. Kentucky Higher Education Assistance Authority		
a. Kentucky Higher Education Assistance Authority Office Building		
Reauthorization		
b. Information Technology Systems Upgrade		
Restricted Funds	650,000	
c. Imaging System Upgrade		
Restricted Funds		125,000
d. Franklin County - Lease		
3. Eastern Kentucky University		
a. Cammack Building		

		Bond Funds	5,000,000	
	b.	Minor Projects Maintenance		
		Restricted Funds	6,000,000	
	c.	E & G Life Safety Bugle Elevator		
		Restricted Funds	750,000	
	d.	Student Housing Fire Safety		
		Restricted Funds	2,000,000	
	e.	Property Acquisition		
		Restricted Funds	3,000,000	
	f.	Dormitory Renovation, Combs Hall		
		Restricted Funds	5,000,000	
	g.	Greek Row		
		Restricted Funds	4,000,000	
	h.	Watts Property (Elmwood) Renovation		
		Restricted Funds	2,000,000	
	i.	Health Education Center - Phase I		
		Bond Funds	7,000,000	
	j.	Fourier Transformer Nuclear Magnetic Resonance Spectrometer		
		Restricted Funds	135,000	
	k.	Electronic Security System for Law Library		
		Restricted Funds	110,000	
	l.	Minor Projects Equipment		
		Restricted Funds	2,500,000	2,500,000
4.		Kentucky State University		
	a.	Hathaway Hall Renovation		
		Bond Funds	3,796,000	
	b.	Pedestrian Mall		
		Restricted Funds	771,000	
	c.	Young Hall		
		Restricted Funds	3,672,000	
	d.	Chillier Additions		
		Restricted Funds		2,254,200
	e.	Guaranteed Energy Savings Project		
		Restricted Funds		2,500,000
	f.	Capital Renewal Projects		
		Restricted Funds		1,000,000
	g.	Cooperative Extension Expansion Projects		
		Federal Funds	995,000	497,500
	h.	Roof Repair and Replacement Project		
		Restricted Funds		600,000
	i.	Carver Hall Renovation		
		Bond Funds	5,000,000	
	j.	Aquaculture Classroom and Lab Facility		
		Federal Funds	650,000	
	k.	University Motor Coaches		
		Restricted Funds	800,000	
5.		Morehead State University		

a.	Americans with Disabilities Act Compliance - E & G		
	Restricted Funds	901,500	891,500
b.	Americans with Disabilities Act Compliance - Aux.		
	Restricted Funds	785,000	775,000
c.	1990 Clean Air Act Amendment Compliance		
	Restricted Funds	1,100,000	
d.	Life Safety: Claypool-Young Art Building		
	Restricted Funds	420,000	
e.	Capital Renewal - E & G Facilities		
	Restricted Funds	2,150,100	2,149,900
f.	Life Safety: Auxiliary Facilities		
	Restricted Funds	2,030,000	
g.	Land Acquisitions Related to Campus Master Plan		
	Restricted Funds	1,337,000	
h.	Student Center Renovation & Addition - Phase 1		
	Bond Funds	10,000,000	
i.	Artificial Turf Replacement		
	Restricted Funds	1,000,000	
j.	Central Campus Reconstruction		
	Restricted Funds	650,000	
k.	Construction of Family Housing Complexes		
	Restricted Funds	2,000,000	2,000,000
l.	Capital Renewal - Auxiliary Facilities		
	Restricted Funds	1,150,000	1,150,000
m.	Guaranteed Energy Savings		
	Restricted Funds	2,000,000	
n.	Life Safety: E & G Facilities		
	Restricted Funds	720,000	
o.	Radiological Technology Initiatives		
	Restricted Funds	859,000	
p.	Instructional and Support Equipment		
	Restricted Funds	1,434,100	
q.	Tour Bus		
	Restricted Funds	330,000	
r.	Nuclear Magnetic Resonance Apparatus		
	Restricted Funds	210,000	
s.	Instructional Technology Initiatives		
	Restricted Funds	2,009,600	
t.	HPLC-Mass Spectrometer		
	Restricted Funds	140,000	
u.	Microcomputer/LANs/Peripherals-Instructional		
	Restricted Funds	2,000,000	
v.	Library Automation & Inf. Support Initiatives		
	Restricted Funds	920,000	
w.	Admin. & Office Systems Support Initiatives		
	Restricted Funds	1,300,000	
x.	Networking/Infrastructure Initiatives		
	Restricted Funds	2,180,000	

	y.	Telecommunications Systems		
		Restricted Funds	2,000,000	
6.		Murray State University		
	a.	Woods Academic/Student Services Building		
		Restricted Funds	2,000,000	
	b.	Electrical Distribution Upgrade		
		Restricted Funds	3,330,000	
	c.	Replace High Voltage Feeder		
		Restricted Funds	1,141,000	
	d.	National Scouting Museum, BAs Phase III		
		Reauthorization		
	e.	Replace Clark Hall		
		Restricted Funds	8,000,000	
	f.	Replace Central Plant Boiler		
		Restricted Funds	666,000	
	g.	Replace Physical Plant Electrical Substation		
		Restricted Funds	796,000	
	h.	Replace Campus Telephone Cable		
		Restricted Funds	1,708,000	
	i.	Asbestos Abatement: E & G Pool		
		Restricted Funds	272,500	
	j.	CFC Compliance: E & G Chillers Replacement		
		Restricted Funds	585,000	
	k.	Pogue Electric and HVAC Renovation		
		Restricted Funds	750,000	
	l.	Central Plant - Add Chiller		
		Restricted Funds	630,000	
	m.	New Science Building		
		Bond Funds	13,000,000	
	n.	Land Acquisition Pool		
		Restricted Funds	500,000	
	o.	Guaranteed Energy Savings Project		
		Restricted Funds	2,000,000	
	p.	Upgrade Highway 121 Electrical Substation		
		Restricted Funds	1,000,000	
	q.	Price Doyle HVAC Replacement & Energy Retrofit		
		Restricted Funds	750,000	
	r.	Capital Renewal: E & G Pool < $400,000		
		Restricted Funds	2,705,000	
	s.	Capital Renewal: H & D Pool < $400,000		
		Restricted Funds	195,000	
	t.	Winslow Cafeteria - Replacement Mechanical Equipment		
		Restricted Funds		500,000
	u.	Elizabeth College - Renovate HVAC System		
		Restricted Funds	1,200,000	
	v.	Heater College - Renovate HVAC System		
		Restricted Funds	800,000	
	w.	White College - Renovate HVAC System		

	Restricted Funds	1,000,000	
x.	White College - Replace Domestic Water Piping		
	Restricted Funds	500,000	
y.	Regents College - Replace Domestic Water Piping		
	Restricted Funds	500,000	
z.	Regents College - Renovate HVAC System		
	Restricted Funds	1,000,000	
aa.	Applied Science - Electrical Upgrade		
	Restricted Funds	850,000	
ab.	Wells Hall - Electrical Upgrade		
	Restricted Funds	600,000	
ac.	Sparks Hall - Electrical Upgrade		
	Restricted Funds	952,000	
ad.	Sparks Hall - Renovate HVAC System		
	Restricted Funds	500,000	
ae.	General Services - Renovate HVAC System		
	Restricted Funds	500,000	
af.	Special Education Bldg. - Renovate HVAC System		
	Restricted Funds	500,000	
ag.	Deferred Maintenance: E & G Pool		
	Restricted Funds	864,000	
ah.	Deferred Maintenance: H & D Pool		
	Restricted Funds	930,000	
ai.	Life Safety: E & G Pool		
	Restricted Funds	852,000	
aj.	Life Safety: H & D Pool		
	Restricted Funds	40,000	
ak.	ADA Compliance: Arch Barrier E & G Pool		
	Restricted Funds	2,092,000	
al.	ADA Compliance: Elev. Ctrls./Modify E & G		
	Restricted Funds	1,013,000	
am.	ADA Compliance: Arch Barriers H & D Pool		
	Restricted Funds	175,000	300,000
an.	Asbestos Abatement: H & D Pool		
	Restricted Funds	321,000	395,000
ao.	E & G Projects Less Than $400,000		
	Restricted Funds	792,000	
ap.	Stereo Lithograph		
	Restricted Funds	500,000	
aq.	Recording/Playback Lab & Special Instrument Repl.		
	Restricted Funds		188,000
ar.	Replace Home Economics Appliances, etc.		
	Restricted Funds		120,000
as.	Optics Lab Equipment		
	Federal Funds		85,000
	Restricted Funds		85,000
	Total		170,000
at.	Dark Room Scanner		

	Restricted Funds		120,000
au.	Materials Testing Machine		
	Restricted Funds	240,000	
av.	Campus Network Distribution System		
	Restricted Funds	3,000,000	
aw.	Centralized Support System		
	Restricted Funds	1,850,000	
ax.	Network Nine Residence Halls		
	Restricted Funds	1,300,000	
7.	Northern Kentucky University		
a.	Covington Campus Privatization		
	Other Funds	11,000,000	
b.	Alumni & Faculty/Staff Center		
	Other Funds	4,000,000	
c.	Safety Lighting		
	Restricted Funds	910,000	
d.	Nunn Hall Mechanical Upgrade		
	Restricted Funds	500,000	
e.	Minor Projects Pool (2000-2002)		
	Restricted Funds	2,170,000	
f.	Old Science Renovation (Design Phase)		
	Bond Funds	1,000,000	
g.	Land Acquisition (2000-2002)		
	Restricted Funds	4,000,000	
h.	Classroom/Technology Initiative		
	Restricted Funds	3,000,000	
i.	Boiler/Chiller Replacement		
	Restricted Funds	1,500,000	
j.	Elevator Upgrade		
	Restricted Funds	600,000	
k.	New Power Plant		
	Bond Funds	12,000,000	
l.	Master Plan Initiatives Phase I		
	Restricted Funds	1,500,000	
m.	Chilled Water System Redesign		
	Restricted Funds	400,000	
n.	Refurbish Nunn Hall		
	Restricted Funds	600,000	
o.	New Residence Hall		
	Other Funds	15,000,000	
p.	Greenhouse		
	Other Funds	500,000	
q.	Ultracentrifuge		
	Restricted Funds	100,000	
r.	Planetarium Equipment		
	Other Funds	750,000	
s.	Coach Bus		
	Restricted Funds	330,000	

	t.	Gas Chromatograph/Mass Spectrometer	
		Restricted Funds	145,000
	u.	NMR Spectrometer	
		Restricted Funds	385,000
	v.	New Press	
		Restricted Funds	235,000
	w.	Data Storage System	
		Restricted Funds	130,000
	x.	Automated Tape System	
		Restricted Funds	155,000
	y.	Metropolitan Education & Training Center -Lease	
8.	University of Kentucky		
	a.	Chilled Water Additions	
		Restricted Funds	784,000
	b.	Storm Sewer Improvements, Funkhouser	
		Restricted Funds	910,000
	c.	Chiller Replacement - Cooling #3	
		Restricted Funds	2,500,000
	d.	Electrical Substation Upgrade	
		Restricted Funds	3,600,000
	e.	Steam and Condensate Pipe Repair Phase I	
		Restricted Funds	2,352,000
	f.	Substation #2 Renovation	
		Restricted Funds	2,520,000
	g.	Pollution Controls, Central Heating Plant #2	
		Restricted Funds	1,494,000
	h.	Steam and Condensate Pipe Improvements Phase II	
		Restricted Funds	2,494,000
	i.	Cooling Plant #1 Expansion	
		Restricted Funds	14,755,000
	j.	Central Heating Plant #2 Improvements	
		Restricted Funds	1,247,000
	k.	Chilled Water Piping Addition to Pit	
		Restricted Funds	1,174,000
	l.	Upgrade Chilled Water Systems at Medical Center	
		Restricted Funds	3,450,000
	m.	Steam Line Expansion - Medical Center	
		Restricted Funds	2,867,000
	n.	Sanitary Line Project	
		Restricted Funds	2,360,000
	o.	Communication Project	
		Restricted Funds	1,735,000
	p.	Medical Center Library Information Center	
		Restricted Funds	3,000,000
	q.	Nursing Building Elevator Controls Upgrade	
		Restricted Funds	500,000
	r.	Outpatient Clinic Expansion	
		Restricted Funds	1,000,000

s.	Energy Performance Contracting (Medical Center)	
	Restricted Funds	10,000,000
t.	Academic and Research Renovation II (COM)	
	Restricted Funds	500,000
u.	Retrofitting of Research Facilities	
	Restricted Funds	480,000
v.	Research Space Enhancement	
	Restricted Funds	600,000
w.	Medical Center Security Improvement Measures, PH	
	Restricted Funds	600,000
x.	Communication Infrastructure, Phase I	
	Restricted Funds	800,000
y.	Departmental Upgrading	
	Restricted Funds	750,000
z.	Research Lab Fit-Up (Aging/Allied Health)	
	Restricted Funds	7,000,000
aa.	Biomedical Sciences Research Building	
	Bond Funds	39,000,000
	Restricted Funds	26,000,000
	Total	65,000,000
ab.	Land Acquisition	
	Restricted Funds	4,000,000
ac.	Lancaster Aquatics Center Expansion	
	Restricted Funds	2,750,000
ad.	Student Housing/Fraternity House Replacement	
	Agency Bonds	6,000,000
ae.	Parking #2 Expansion/Renovation/Replacement	
	Agency Bonds	11,000,000
af.	Police/Parking Building	
	Restricted Funds	2,300,000
ag.	Commonwealth Stadium Field Renovation	
	Restricted Funds	1,500,000
ah.	Women's Basketball Office Renovation	
	Restricted Funds	550,000
ai.	Commonwealth Stadium Field Light Replacement	
	Restricted Funds	1,500,000
aj.	KGS Well Sample and Core Repository Building	
	Restricted Funds	2,545,000
ak.	Environmental Institute	
	Restricted Funds	2,500,000
al.	Life Safety Pool	
	Restricted Funds	2,145,000
am.	Handicapped Access Pool	
	Restricted Funds	350,000
an.	Deferred Maintenance Pool	
	Restricted Funds	2,095,000
ao.	Life Safety - Lex Campus Fume Hoods - Phase III	
	Restricted Funds	3,205,000

ap.	Life Safety - Lex Campus - Asbestos Abatement I		
	Restricted Funds	500,000	
aq.	Life Safety - Underground Storage Tanks		
	Restricted Funds	927,000	
ar.	Capital Renewal Pool		
	Restricted Funds	12,268,000	
as.	Renovation of Biological Sciences Research Space		
	Restricted Funds	1,430,000	
at.	Keeneland Hall - HVAC		
	Agency Bonds	2,821,000	
au.	Jewell Hall - HVAC		
	Agency Bonds	1,040,000	
av.	Boyd Hall - HVAC		
	Agency Bonds	1,633,000	
aw.	Renovation of Funkhouser - Phase IV		
	Restricted Funds		770,000
ax.	Chemistry Laboratory Renovation		
	Restricted Funds	1,155,000	
ay.	Gatton College Addition for Int'l Business and Management		
	Restricted Funds		1,725,000
az.	Cooperstown - Phase IV		
	Agency Bonds	1,313,000	
ba.	Seaton Center Addition/Renovation		
	Agency Bonds	15,350,000	
bb.	School of Library and Information Science		
	Restricted Funds	750,000	
bc.	Nursing Unit Modification IX		
	Restricted Funds	3,780,000	
bd.	Nursing Unit Modification X		
	Restricted Funds	3,780,000	
be.	Diagnostic Services Upgrade IX		
	Restricted Funds	1,575,000	
bf.	Outpatient Services II		
	Restricted Funds	5,040,000	
bg.	Diagnostic Services Upgrade X		
	Restricted Funds	1,155,000	
bh.	Implementation of Land Use Plan III		
	Restricted Funds	2,625,000	
bi.	Parking Structure III		
	Restricted Funds	7,350,000	
bj.	Building Connectors II		
	Restricted Funds	2,200,000	
bk.	Energy Performance Contracting		
	Restricted Funds	20,000,000	
bl.	Implementation of Land Use Plan II		
	Restricted Funds	2,500,000	
bm.	Limited Stay Facility		
	Restricted Funds	5,460,000	

bn.	Building/Site Upgrade II	
	Restricted Funds	710,000
bo.	Hospital Kitchen Renovation I	
	Restricted Funds	1,050,000
bp.	Hospital Kitchen Renovation II	
	Restricted Funds	546,000
bq.	Markey Fourth Floor Renovation	
	Restricted Funds	3,990,000
br.	Imaging Services	
	Restricted Funds	3,675,000
bs.	Diagnostic Services Upgrade VIII	
	Restricted Funds	1,100,000
bt.	Intra-Hospital Transportation Systems III	
	Restricted Funds	735,000
bu.	Parking Structure I	
	Restricted Funds	6,600,000
bv.	Biohazard/Environmental Protection I	
	Restricted Funds	1,575,000
bw.	Materials Handling Storage/Distribution Center	
	Restricted Funds	1,019,000
bx.	Parking Structure II	
	Restricted Funds	6,930,000
by.	Data Systems Expansion I	
	Restricted Funds	595,000
bz.	Biohazard/Environmental Protection II	
	Restricted Funds	1,575,000
ca.	Intra-Hospital Transportation System IV	
	Restricted Funds	735,000
cb.	HVAC Upgrade	
	Restricted Funds	3,500,000
cc.	Data Systems Expansion II	
	Restricted Funds	641,000
cd.	Building/Site Upgrade III	
	Restricted Funds	767,000
ce.	Hospital Parking Expansion	
	Restricted Funds	3,100,000
cf.	Nutrition Services Upgrade	
	Restricted Funds	1,050,000
cg.	Outpatient Care Facility	
	Restricted Funds	3,500,000
ch.	Support Services Upgrade	
	Restricted Funds	2,415,000
ci.	Utility System Upgrade V	
	Restricted Funds	1,680,000
cj.	Patient Care Facility/Women's Cancer Center	
	Restricted Funds	9,200,000
ck.	Energy Performance Contracting (Lexington Campus)	

	Restricted Funds	50,000,000
cl.	Stiff Testing Machine	
	Restricted Funds	140,000
cm.	Hydro Flume	
	Restricted Funds	130,000
cn.	High Resolution Mass Spectrometer	
	Restricted Funds	500,000
co.	High Temperature Optical Microscope	
	Restricted Funds	105,000
cp.	Holographic System with Image Analyzer	
	Restricted Funds	110,000
cq.	High Resolution STEM 400KV	
	Restricted Funds	1,500,000
cr.	Studio Recording Equipment	
	Restricted Funds	113,000
cs.	Tinius Olsen Ductometer	
	Restricted Funds	100,000
ct.	High Pressure Liquid Chromatography	
	Federal Funds	100,000
	Restricted Funds	100,000
	Total	200,000
cu.	High Power CO2 Laser	
	Restricted Funds	250,000
cv.	Freeze-Thaw Apparatus	
	Restricted Funds	100,000
cw.	X-Ray Laue Unit - Single Crystal	
	Restricted Funds	150,000
cx.	Thermal Analyzer and Powder Diffractometer	
	Restricted Funds	310,000
cy.	Sterilizing/Cleaning System	
	Restricted Funds	234,000
cz.	Solids NMR Spectrometer	
	Restricted Funds	900,000
da.	Environmental Test System	
	Restricted Funds	125,000
db.	Upgrade of 400 MHz Nuclear Magnetic Resonance	
	Federal Funds	340,000
	Restricted Funds	160,000
	Total	500,000
dc.	Electron Spin Resonance Instrument	
	Federal Funds	135,000
	Restricted Funds	65,000
	Total	200,000
dd.	Ultra High Vacuum Chamber	
	Federal Funds	170,000
	Restricted Funds	80,000
	Total	250,000
de.	Laser System	

	Federal Funds	170,000
	Restricted Funds	80,000
	Total	250,000
df.	Faraday Balance	
	Federal Funds	140,000
	Restricted Funds	60,000
	Total	200,000
dg.	Area Detector Diffractometer	
	Federal Funds	210,000
	Restricted Funds	100,000
	Total	310,000
dh.	High-Speed Digital Signal Processing Development	
	Federal Funds	150,000
di.	Three-Dimensional Scaling Device	
	Federal Funds	100,000
dj.	Garbage Truck Front Loader - Replacement	
	Restricted Funds	165,000
dk.	MB/GT Phospho-Imager	
	Restricted Funds	128,000
dl.	MB Ultracentrifuges	
	Restricted Funds	354,000
dm.	Mass Spectrograph for Oligonucleotide Analysis	
	Restricted Funds	250,000
dn.	Gas Chromatograph Mass Spectrophotometer System	
	Restricted Funds	101,000
do.	Fluor. Microscope with Imaging System	
	Restricted Funds	125,000
dp.	CAD/CAM System (College of Dentistry)	
	Restricted Funds	184,000
dq.	Tabletop H50 Gas Chromatograph Mass Spectrometer	
	Restricted Funds	101,000
dr.	Liquid Filling/Stoppering Line	
	Restricted Funds	351,000
ds.	Encapsulator	
	Restricted Funds	151,000
dt.	Semi-Solid Manufacturing Equipment	
	Restricted Funds	211,000
du.	Terminal Sterilizing Autoclave	
	Restricted Funds	221,000
dv.	Fluorescene Analyzer	
	Restricted Funds	109,000
dw.	High Performance Liquid Chromatography	
	Restricted Funds	131,000
dx.	Image Analysis System	
	Restricted Funds	206,000
dy.	Confocal Microscope	
	Restricted Funds	325,000
dz.	Epi-Fluorescene Microscope	

	Restricted Funds	134,000
ea.	Gas Chromatograph Mass Spectrometer	
	Restricted Funds	258,000
eb.	Flow Cytometry Lab	
	Restricted Funds	375,000
ec.	Ultracentrifuge	
	Restricted Funds	117,000
ed.	9.4 Tessler Scanner	
	Restricted Funds	868,000
ee.	600 MHz NMR System	
	Restricted Funds	1,753,000
ef.	800 MHz NMR System	
	Restricted Funds	2,903,000
eg.	DNA Synthesizer	
	Restricted Funds	103,000
eh.	Fluorescent Activated Cell Sorter	
	Restricted Funds	237,000
ei.	Protein Synthesizer	
	Restricted Funds	206,000
ej.	Research Grade Light Microscope	
	Restricted Funds	103,000
ek.	High Resolution Phosophor Imager	
	Restricted Funds	206,000
el.	DNA Sequencer	
	Restricted Funds	134,000
em.	3T Human Research System	
	Restricted Funds	2,527,000
en.	Mammography X-Ray Unit	
	Restricted Funds	101,000
eo.	Sequence Detection System	
	Restricted Funds	100,000
ep.	Fluor. Microscope and Image Analysis System	
	Restricted Funds	150,000
eq.	Auto. Poly. Chain Reaction Analysis Machine	
	Restricted Funds	150,000
er.	DNA Sequencer	
	Restricted Funds	158,000
es.	Laser Confocal Microscope	
	Restricted Funds	312,000
et.	Inverted Microscope Including Fluoroscope	
	Restricted Funds	155,000
eu.	Image Analyzer System	
	Restricted Funds	206,000
ev.	Electrophysiologic Analysis System	
	Restricted Funds	207,000
ew.	Multiphoton Imaging System	
	Restricted Funds	505,000
ex.	Behavioral Monitoring & Analysis System	

	Restricted Funds	150,000	
ey.	Gene Chip Instrument System		
	Restricted Funds	450,000	
ez.	Combi. Met. Cart, ECG, Auto BP, Plethusmography		
	Restricted Funds	123,000	
fa.	Upgrade Scanner System		
	Restricted Funds	500,000	
fb.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds	250,000	
fc.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
fd.	Plot Combine with Weighing System		
	Restricted Funds	125,000	
fe.	HPLC/Mass Spectrometer System		
	Restricted Funds	300,000	
ff.	X-Ray Fluorescence		
	Restricted Funds	130,000	
fg.	Transmission Electron Microscope		
	Restricted Funds	200,000	
fh.	Oxymax Open Circuit Calorimeter		
	Restricted Funds	100,000	
fi.	Virtual Environment Simulator		
	Restricted Funds	125,000	
fj.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
fk.	Inductive Coupled Argon Plasma Unit		
	Restricted Funds	110,000	
fl.	DNA Sequencer/Gene Mapping		
	Restricted Funds	130,000	130,000
fm.	High Throughput DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
fn.	DNA Chip Analysis System		
	Restricted Funds	160,000	
fo.	Luminometer		
	Restricted Funds	110,000	
fp.	Robotics Pipettor System		
	Restricted Funds	104,000	
fq.	Confocal Microscope		
	Restricted Funds	130,000	
fr.	Ultracentrifuge		
	Restricted Funds	110,000	
fs.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
ft.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
fu.	Automated DNA Sequencer		
	Restricted Funds	130,000	
fv.	DNA Sequencer		

	Restricted Funds	125,000
fw.	Confocal Microscope	
	Restricted Funds	150,000
fx.	Fluoro/Phosphoimager	
	Restricted Funds	120,000
fy.	Genetic Analyzer	
	Restricted Funds	140,000
fz.	Multi-Unit Microbial Containment Chamber	
	Restricted Funds	100,000
ga.	Transmission Electron Microscope	
	Restricted Funds	300,000
gb.	Plot Combine	
	Restricted Funds	125,000
gc.	Forage Harvester System	
	Restricted Funds	150,000
gd.	HPLC-Mass Spectrometer	
	Restricted Funds	217,000
ge.	Plot Combine	
	Restricted Funds	130,000
gf.	Inductive Coupled Plasma Spectrometer System	
	Restricted Funds	120,000
gg.	Mass Spectrometer	
	Restricted Funds	200,000
gh.	Near Infrared Reflectance Spectrometer	
	Restricted Funds	125,000
gi.	Confocal Microscope	
	Restricted Funds	130,000
gj.	Laser Ablation Sampling System	
	Restricted Funds	200,000
gk.	Gas Analyzer	
	Restricted Funds	100,000
gl.	NMR Spectrometer 300 MHz	
	Restricted Funds	400,000
gm.	ESCA - X-Ray Photoelectron Microscope	
	Restricted Funds	400,000
gn.	Fourier-transform Infra-Red Raman Spectrometer	
	Restricted Funds	175,000
go.	Field Emission Scanning Electron Microscope	
	Restricted Funds	175,000
gp.	System for Materials Forming	
	Restricted Funds	180,000
gq.	Instrumentation for Materials Characterization	
	Restricted Funds	150,000
gr.	High Resolution Optical Microscope	
	Restricted Funds	110,000
gs.	Gas Chromatograph/MSD	
	Restricted Funds	110,000
gt.	Networked Printer	

	Restricted Funds	200,000
gu.	Printing System	
	Restricted Funds	200,000
gv.	Digital Orbitor Camera	
	Restricted Funds	250,000
gw.	EKG Management System	
	Restricted Funds	250,000
gx.	Cardiac Cath Laboratory Unit	
	Restricted Funds	9,280,000
gy.	Electrophysiology Laboratory	
	Restricted Funds	1,740,000
gz.	Digital Enhancement	
	Restricted Funds	986,000
ha.	General Radiography Unit	
	Restricted Funds	928,000
hb.	Surgical Microscope	
	Restricted Funds	400,000
hc.	Laboratory Analyzer	
	Restricted Funds	400,000
hd.	Radiation Therapy Unit	
	Restricted Funds	2,088,000
he.	Mobile Fluoroscopy	
	Restricted Funds	200,000
hf.	Surgical Laser	
	Restricted Funds	400,000
hg.	CT Scanner	
	Restricted Funds	1,740,000
hh.	General Radiography/Fluoroscopic Unit	
	Restricted Funds	500,000
hi.	OB Ultrasound	
	Restricted Funds	300,000
hj.	Vascular Ultrasound	
	Restricted Funds	300,000
hk.	Cardiac Ultrasound	
	Restricted Funds	1,600,000
hl.	Endoscopic Video System	
	Restricted Funds	300,000
hm.	Angiography Unit	
	Restricted Funds	1,740,000
hn.	Neuro-Radiography Unit	
	Restricted Funds	1,740,000
ho.	SPECT System	
	Restricted Funds	870,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	Radiology Ultrasound	
	Restricted Funds	400,000
hr.	Mobile Radiology Unit	

	Restricted Funds	200,000
hs.	General Radiology Unit	
	Restricted Funds	928,000
ht.	Gamma Knife Upgrade	
	Restricted Funds	2,320,000
hu.	EMG Unit	
	Restricted Funds	200,000
hv.	MRI Upgrade	
	Restricted Funds	500,000
hw.	Digital Radiology	
	Restricted Funds	4,060,000
hx.	Fluoroscopy Unit	
	Restricted Funds	500,000
hy.	Endoscopy Video Ultrasound	
	Restricted Funds	250,000
hz.	Treatment Planning System	
	Restricted Funds	1,392,000
ia.	Angiography Unit	
	Restricted Funds	1,160,000
ib.	ATL Ultrasound	
	Restricted Funds	200,000
ic.	Biplane Angiography	
	Restricted Funds	1,160,000
id.	Cardiac Catheterization Image Management System	
	Restricted Funds	870,000
ie.	C-Arm X-Ray Unit	
	Restricted Funds	250,000
if.	C-Arm X-Ray Unit	
	Restricted Funds	400,000
ig.	C-Arm X-Ray Unit	
	Restricted Funds	350,000
ih.	CR PAC Server	
	Restricted Funds	250,000
ii.	CT Scanners	
	Restricted Funds	3,480,000
ij.	CT Stimulator	
	Restricted Funds	1,160,000
ik.	Digital Radiology	
	Restricted Funds	928,000
il.	Diagnostic Radiology Unit	
	Restricted Funds	300,000
im.	Endoscopic Ultrasound	
	Restricted Funds	400,000
in.	Electrophysiology Lab	
	Restricted Funds	5,800,000
io.	Filmless System	
	Restricted Funds	120,000
ip.	Intracardiac Laser	

	Restricted Funds	500,000
iq.	Linear Accelerator	
	Restricted Funds	1,856,000
ir.	Mammography Unit	
	Restricted Funds	200,000
is.	Minimally Invasive Room	
	Restricted Funds	1,490,000
it.	Mobile CT	
	Restricted Funds	1,000,000
iu.	Nuclear Medicine Camera	
	Restricted Funds	870,000
iv.	OR Perioperative IS Document System	
	Restricted Funds	200,000
iw.	PACS Server	
	Restricted Funds	800,000
ix.	Portal Imaging System	
	Restricted Funds	200,000
iy.	QuadRIS	
	Restricted Funds	600,000
iz.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ja.	Radiographic Unit	
	Restricted Funds	350,000
jb.	Radiographic Units	
	Restricted Funds	1,250,000
jc.	Steam Autoclave	
	Restricted Funds	375,000
jd.	Sterrad Sterilizer	
	Restricted Funds	375,000
je.	Surgical C-Arm (ISS) System	
	Restricted Funds	550,000
jf.	Teleradiology	
	Restricted Funds	200,000
jg.	Ultrasound Image Management	
	Restricted Funds	700,000
jh.	Vascular Ultrasound	
	Restricted Funds	800,000
ji.	Washer	
	Restricted Funds	230,000
jj.	Digital Imaging	
	Restricted Funds	870,000
jk.	General Chemistry Computerization	
	Restricted Funds	385,000
jl.	Language Lab	
	Restricted Funds	300,000
jm.	Engineering Research Computing System	
	Restricted Funds	440,000
jn.	Network Replacement	

	Restricted Funds	78,000	
jo.	Department Computer Upgrade		
	Restricted Funds	225,000	
jp.	Distributed Testbed System		
	Restricted Funds	250,000	
jq.	NSF Fileserver		
	Restricted Funds	150,000	
jr.	Optical Disk Server		
	Restricted Funds	180,000	
js.	Telemedicine Systems		
	Restricted Funds		600,000
jt.	Instructional Multi-Media, Phase II		
	Restricted Funds	1,168,000	730,000
ju.	Compressed Video - Hazard		
	Restricted Funds	141,000	
jv.	Upgrading/Establishing Communication System		
	Restricted Funds	364,000	463,000
jw.	Patient Classification Equipment Rural Health		
	Restricted Funds	260,000	
jx.	Telemedicine Rural Health		
	Restricted Funds	416,000	
jy.	Satellite Uplink Rural Health		
	Restricted Funds	416,000	
jz.	Virtual Reality Computing System		
	Restricted Funds	150,000	
ka.	Database Testbed		
	Restricted Funds	225,000	
kb.	Campus Infrastructure Upgrade		
	Restricted Funds	1,750,000	1,750,000
kc.	UNIX Server		
	Restricted Funds	1,200,000	
kd.	Research Computing		
	Restricted Funds	3,500,000	
ke.	Storage Management Upgrade		
	Restricted Funds	200,000	
kf.	Imaging System Upgrade		
	Restricted Funds		275,000
kg.	Mainframe Upgrade		
	Restricted Funds	1,500,000	
kh.	Video Switch		
	Restricted Funds	250,000	
ki.	Upgrade HIS Computing Facilities		
	Restricted Funds	2,900,000	
kj.	Clinical Information System		
	Restricted Funds	3,480,000	
kk.	Digital Medical Record Expansion		
	Restricted Funds	4,640,000	
kl.	Patient System Enterprise		

		Restricted Funds	4,640,000	
	km.	Managed Care Enterprise		
		Restricted Funds	1,160,000	
	kn.	Clinical System Enterprise		
		Restricted Funds	5,800,000	
	ko.	State Communication Enterprise		
		Restricted Funds	3,480,000	
	kp.	Mass Storage Capability		
		Restricted Funds	200,000	
	kq.	Upgrade Disk Capacity		
		Restricted Funds	250,000	
	kr.	Upgrade Telecommunications Facilities		
		Restricted Funds	250,000	
	ks.	UK Center for Rural Health		
		Reauthorization		
	kt.	Ophthalmic Imaging System		
		Restricted Funds	48,000	
	ku.	Sensomotoric Instruments Eyelink System		
		Restricted Funds	30,000	
	kv.	High Speed Eye Tracking System		
		Restricted Funds	42,000	
	kw.	EMG System Eight Channel EMG Monitoring System		
		Restricted Funds	23,000	
9.	University of Louisville			
	a.	Code Improvements - Fire Safety Pool		
		Restricted Funds	1,029,000	
	b.	Americans Disabilities Act (ADA) Project Pool		
		Restricted Funds	2,638,000	
	c.	Capital Renewal Project Pool		
		Restricted Funds	6,225,000	
	d.	Support Services Land Acquisition (Northeast)		
		Restricted Funds	4,202,000	
	e.	Student Services Building Renovation (Houchens)		
		Restricted Funds	5,489,000	
	f.	Chemistry Fume Hood Redesign		
		Restricted Funds	5,397,000	
	g.	Reynolds Building Renovation - Housing and Support Services		
		Other Funds	15,433,000	
	h.	Environmental Health and Safety Project Pool		
		Restricted Funds	360,000	
	i.	Sports and Recreation Institute		
		Other Funds	26,247,000	
	j.	Life Sciences Lab Ventilation Renovation		
		Restricted Funds	3,638,000	
	k.	Multi-Cultural Center Building		
		Restricted Funds		5,096,000
	l.	Chlorofluorocarbon Project, Phase III		
		Restricted Funds	1,953,000	

m.	Dental Clinic and Sterilization Renovation		
	Other Funds		3,363,000
n.	Early Childhood "EDUCARE" Center		
	Federal Funds	3,211,000	
o.	HSC Parking Garage - Two Additional Floors		
	Restricted Funds	4,609,000	
p.	Research Resources Center Expansion		
	Other Funds	6,473,000	
	Restricted Funds	2,158,000	
	Total	8,631,000	
q.	MDR Renovation, Phase II, Building 51		
	Restricted Funds		1,619,000
r.	Residence Hall - 600 Beds-Metro Col, Phase II		
	Other Funds	27,843,000	
s.	Cardinal Park - Natatorium		
	Other Funds	12,373,000	
	Restricted Funds	7,266,000	
	Total	19,639,000	
t.	Purchase & Renovate Building (Home of Innocents)		
	Other Funds		3,553,000
	Restricted Funds		3,553,000
	Total		7,106,000
u.	Research Building (Belknap Campus)		
	Bond Funds	25,000,000	
	Restricted Funds	16,368,000	
	Total	41,368,000	
v.	Stoddard Johnston School Renovation		
	Restricted Funds		6,350,000
w.	Pedestrian Overpass at Stadium (Brook Street)		
	Federal Funds	1,901,000	
	Other Funds	475,000	
	Total	2,376,000	
x.	Window Replacements (Belknap Campus)		
	Other Funds	2,694,000	
y.	Cardinal Park - Practice Field, Multicourts, Cardiopath		
	Other Funds	2,813,000	
z.	Health Sciences Library Infrastructure & Renovation		
	Restricted Funds	2,450,000	
aa.	Purchase Parking Space on Health Sciences Campus		
	Restricted Funds	825,000	
ab.	Ekstrom Library Infrastructure and Renovation		
	Restricted Funds	1,924,000	
ac.	Deferred Maintenance Project Pool		
	Restricted Funds	250,000	
ad.	Guaranteed Energy Cost Savings Project (HB-639)		
	Other Funds	3,000,000	
ae.	Boathouse for Rowing Team		
	Other Funds	2,300,000	

af.	Radiographic/Fluroscopic Imaging Unit		
	Restricted Funds	195,000	
ag.	Digital Micro-Luminography System for TEM		
	Restricted Funds		120,000
ah.	Electronic Darkroom		
	Restricted Funds	113,000	
ai.	Gel/Blot Image Analysis System		
	Restricted Funds	145,000	
aj.	High Resolution SEM-Backscatter Detector		
	Restricted Funds	160,000	
ak.	Automated DNA Sequencer		
	Restricted Funds		159,000
al.	Eximer Laser		
	Restricted Funds		600,000
am.	Video Diagnostic Analysis System		
	Restricted Funds		154,000
an.	White Blood Cell Velocity Measurement System		
	Restricted Funds		126,000
ao.	Diode Laser		
	Restricted Funds		100,000
ap.	Radiographic/Fluoroscopic X-Ray System		
	Restricted Funds	317,000	
aq.	Animal Irradiator		
	Restricted Funds	154,000	
ar.	Interm. Voltage Transmission Electron Microscope		
	Restricted Funds	350,000	
as.	Nailfold Microvascular Analysis System		
	Restricted Funds	119,000	
at.	In Vivo Thrombosis Detection & Quant. System		
	Restricted Funds	168,000	
au.	Peptide Sequencer		
	Restricted Funds	151,000	
av.	Small Vein In Vivo Diagnostic System		
	Restricted Funds	197,000	
aw.	Automated Synthesizer		
	Federal Funds	100,000	
	Restricted Funds	100,000	
	Total	200,000	
ax.	FT IR Spectrometer		
	Federal Funds		75,000
	Restricted Funds		75,000
	Total		150,000
ay.	Scanning Tunneling Microscope		
	Restricted Funds	140,000	
az.	Capillary Electrophoresis - Mass Spectrometer		
	Restricted Funds		200,000
ba.	EPR Spectrometer Update		
	Federal Funds		65,000

	Restricted Funds		60,000
	Total		125,000
bb.	NMR Spectrometer (750 MHz NMR)		
	Federal Funds	800,000	
	Restricted Funds	400,000	
	Total	1,200,000	
bc.	Trash Compactor Truck		
	Restricted Funds	135,000	
bd.	SEM Accesorries for Elemental Analysis		
	Restricted Funds	165,000	
be.	Peak 3D Comp Motion Measurement & Analysis System		
	Restricted Funds	120,000	
bf.	Atomic Absorption Spectrometer, High-Resolution		
	Restricted Funds	110,000	
bg.	Ultra High Vacuum Chamber		
	Restricted Funds	310,000	
bh.	Metallorganic Chemical Vapor Deposition		
	Restricted Funds	210,000	
bi.	Mechanical Spectrometer - Rheometrics		
	Restricted Funds	160,000	
bj.	Axial/Torsional Tester		
	Restricted Funds	195,000	
bk.	Microelectronics Processing System		
	Restricted Funds	162,000	
bl.	Dynamometer		
	Restricted Funds	122,000	
bm.	IR Spectrometer		
	Restricted Funds	110,000	
bn.	X-Ray Fluorescence Spectrometer		
	Restricted Funds	210,000	
bo.	Micro CT Scanner		
	Restricted Funds	300,000	
bp.	XPS/Auger Spectroscope		
	Restricted Funds	253,000	
bq.	Laser Ablation Unit		
	Restricted Funds		230,000
br.	Sputtering Unit		
	Restricted Funds	162,000	
bs.	Materials Testing System		
	Restricted Funds	189,000	
bt.	Load Application System		
	Restricted Funds		208,000
bu.	Visualization System		
	Restricted Funds	121,000	
bv.	CNC Grinding Machine		
	Restricted Funds	169,000	
bw.	Correlation Microscope		
	Federal Funds	190,000	

	Restricted Funds	5,000	
	Total	195,000	
bx.	Full Object Scanner		
	Restricted Funds	360,000	
by.	Finishing Device		
	Restricted Funds		250,000
bz.	Color Digital Output Engine		
	Restricted Funds	700,000	
ca.	Florescent Spectrometer		
	Federal Funds		135,000
	Restricted Funds		135,000
	Total		270,000
cb.	Neuro Scan ESI-128: 128 Channel ERP System		
	Federal Funds	40,000	
	Restricted Funds	100,000	
	Total	140,000	
cc.	X-Ray Diffraction Module		
	Federal Funds		250,000
	Restricted Funds		500,000
	Total		750,000
cd.	Laser Microfabrication Lab		
	Federal Funds		275,000
	Restricted Funds		275,000
	Total		550,000
ce.	Infra-Red Imaging System		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
cf.	Large Area Microplating		
	Federal Funds		150,000
	Restricted Funds		150,000
	Total		300,000
cg.	Differential Scanning Calorimeter		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
ch.	Circular Dichroism Spectropolarimeter		
	Federal Funds		50,000
	Restricted Funds		50,000
	Total		100,000
ci.	Laser Spectrometer		
	Federal Funds		93,000
	Restricted Funds		100,000
	Total		193,000
cj.	Electronic Journals and Full Text - Libraries		
	Restricted Funds	2,000,000	
ck.	Electronic Journals and Full Text - Libraries		

	Restricted Funds	1,000,000	
cl.	Nuclear Medicine Hot Lab		
	Restricted Funds	107,000	
cm.	Flow Cytometer		
	Restricted Funds	165,000	
cn.	High Performance Q-TOF Spectrometer		
	Restricted Funds	500,000	
co.	HPLC-Ion Resonance Cyclotron		
	Restricted Funds	180,000	
cp.	Microcalorimeter		
	Restricted Funds	137,000	
cq.	Nucleic Acid Microchip Analyzer		
	Restricted Funds		185,000
cr.	Analytical Centrifuge		
	Restricted Funds		139,000
cs.	Inductively Coupled Plasma Spectrometer		
	Restricted Funds		160,000
ct.	Plasmon Resonance Instrument (Biochem - X)		
	Restricted Funds		107,000
cu.	DNA CEQ 2000 Analysis System		
	Restricted Funds		150,000
cv.	Geneotype Nucleic Acid Chip Analyzer		
	Restricted Funds		200,000
cw.	Confocal Microscope (OPTH)		
	Restricted Funds	401,000	
cx.	Confocal Microscope (ASN)		
	Restricted Funds		280,000
cy.	Plasmon Resonance Instrument (Biochem - 3000)		
	Restricted Funds	250,000	
cz.	MALDI-Reflex-TOF		
	Restricted Funds	310,000	
da.	ACUSON - Aspen Ultrasound Imaging System		
	Restricted Funds	176,000	
db.	Human Patient Simulator		
	Restricted Funds	1,110,000	
dc.	Flow Cytometer/Cell Sorter		
	Restricted Funds	152,000	
dd.	NMR Instrument 600 MHz		
	Federal Funds	600,000	
	Restricted Funds	1,300,000	
	Totals	1,900,000	
de.	Expand Medical Information Technology Infrastructure		
	Restricted Funds	500,000	
df.	Student Records Imaging Storage & Retrieval System		
	Restricted Funds	475,000	
dg.	Wiring for Computer Access - Residence Halls		
	Restricted Funds	600,000	
dh.	Fiber Optic LAN/Computer-Based Instruction System		

	Restricted Funds	427,000	
di.	Compressed Video Conferencing Room and Instruction Lab		
	Restricted Funds	446,000	
dj.	Computer Workstations for Libraries		
	Restricted Funds	200,000	
dk.	Collaborative Learning Centers - Libraries		
	Restricted Funds	557,000	
dl.	OC3 Network Equipment		
	Restricted Funds	315,000	
dm.	High Speed Graphics Imaging System		
	Restricted Funds		200,000
dn.	Network Switching System		
	Restricted Funds	300,000	300,000
do.	Digital Communications Network		
	Restricted Funds	1,500,000	
dp.	Voice Automation Enhancements		
	Restricted Funds	250,000	
dq.	Digital Microwave Network		
	Restricted Funds	250,000	
dr.	Computer Processing System		
	Restricted Funds	1,500,000	500,000
ds.	Mainframe Memory		
	Restricted Funds	250,000	250,000
dt.	High Volume Output Devices/Duplicators		
	Restricted Funds	376,000	500,000
du.	Engineering/Scientific Processor		
	Restricted Funds	600,000	500,000
dv.	Client/Server System/File Server(s)		
	Restricted Funds	600,000	500,000
dw.	Specialized Central Processing Unit		
	Restricted Funds	250,000	250,000
dx.	Storage System(s)		
	Restricted Funds	500,000	500,000
dy.	Virtual Reality Display System		
	Federal Funds		100,000
	Restricted Funds		100,000
	Total		200,000
dz.	High Energy Physics Data Analysis System		
	Federal Funds		200,000
	Restricted Funds		200,000
	Total		400,000
ea.	Condensed Matter Theory Computational System		
	Federal Funds		175,000
	Restricted Funds		160,000
	Total		335,000
eb.	Client/Server Alumni/Dev. Information Systems		
	Restricted Funds	750,000	
ec.	Digital Television Production Switcher		

	Restricted Funds	200,000	
ed.	Satellite Uplink Truck		
	Restricted Funds	200,000	
ee.	Intelligent Laser and Lighting System		
	Restricted Funds	360,000	
ef.	Computer Visualization System		
	Restricted Funds	655,000	
eg.	Commonwealth Virtual Univ. Lib Server-Upgrades		
	Restricted Funds	250,000	250,000
eh.	One Card/Phase I & II		
	Restricted Funds	450,000	450,000
ei.	Supercomputing System		
	Restricted Funds	1,500,000	
ej.	Telecommunications Switch		
	Restricted Funds	750,000	
ek.	Schultz Building Lease		
10.	Western Kentucky University		
a.	E & G Capital Renewal/Life Safety Pool		
	Restricted Funds	8,935,000	
b.	Campus Energy Conservation		
	Other Funds	3,750,000	
c.	Ivan Wilson Center Chiller(s) Replacement		
	Restricted Funds	562,000	
d.	Agriculture Exposition Center HVAC Improvements		
	Restricted Funds	731,000	
e.	Public Radio and Television Transmission Tower		
	Restricted Funds	615,000	
f.	Western Kentucky University Primary Electric Svc.		
	Restricted Funds	3,000,000	
g.	Garrett Conference Center HVAC Project		
	Restricted Funds	600,000	
h.	Cravens Repair Leaking Windows		
	Restricted Funds	591,000	
i.	Academic Complex Replace VAV Boxes		
	Restricted Funds	638,000	
j.	Academic Complex ACM Floor Tile Abatement		
	Restricted Funds	957,000	
k.	Van Meter Renovation - Design		
	Restricted Funds	935,000	
l.	Science Complex Renovation and Expansion		
	Bond Funds	15,000,000	
	Restricted Funds	11,000,000	
	Total	26,000,000	
m.	Gordon Wilson Renovation - Design		
	Restricted Funds	437,500	
n.	E S & T Replace Duct Work and HVAC Controls		
	Restricted Funds	633,000	
o.	Kentucky Building HVAC Replacement		

	Restricted Funds	880,000
p.	Helm Library Fire Alarm Replacement	
	Restricted Funds	554,000
q.	Ivan Wilson Fine Arts Center Life Safety	
	Restricted Funds	441,000
r.	Telephone Infrastructure	
	Restricted Funds	3,000,000
s.	Digital Television Transmission System	
	Federal Funds	800,000
	Restricted Funds	800,000
	Total	1,600,000
t.	Campus Communications Network Expansion	
	Restricted Funds	750,000
u.	ADA Accessible Shuttle Buses	
	Restricted Funds	360,000
v.	Confocal Microscope	
	Restricted Funds	110,000
w.	Video Server	
	Restricted Funds	800,000
11.	Kentucky Community and Technical College System	
a.	West Kentucky College: Roof Replacement	
	Restricted Funds	999,000
b.	Cumberland TC, Harlan Campus: Renovate Building 2	
	Bond Funds	4,114,000
c.	Mayo Technical College: Campus Renovation	
	Bond Funds	7,582,000
d.	Elizabethtown TC: HVAC System Replacement 66 and 75 Building	
	Restricted Funds	834,000
e.	Bowling Green TC: Replace Roofs, Buildings G and H	
	Restricted Funds	532,000
f.	Ashland Technical College: Original Campus Renovation	
	Bond Funds	6,900,000
g.	KCTCS Capital Renewal Project Pool	
	Restricted Funds	10,165,000
h.	Jefferson Technical College: HVAC System Replacement	
	Restricted Funds	2,491,000
i.	Somerset TC: Fire and Sprinkler System	
	Restricted Funds	525,000
j.	KCTCS Deferred Maintenance & Government Mandate Pool	
	Restricted Funds	3,571,000
k.	KCTCS Program Renovation Pool	
	Restricted Funds	5,368,000
l.	Northern KY Community & Technical College, Phase I	
	Bond Funds	10,000,000
m.	Jefferson CC: Renovation of Downtown Campus	
	Bond Funds	8,800,000
n.	Elizabethtown CC - Science Building Renovation	
	Bond Funds	2,200,000

o. Southeast CC - Newman Hall Renovation		
Bond Funds		2,000,000
p. Madisonville CC: Muhlenberg Campus		
Reauthorization		
q. Guaranteed Energy Savings Project Pool		
Restricted Funds		5,000,000
r. Hazard Technical College: Bulldozer		
Restricted Funds		478,000
s. Hazard Technical College: Trackhoe		
Restricted Funds		150,000
t. Ashland Technical College: Computer Interfaced Distillation Col.		
Restricted Funds		114,000
u. Mayo Technical College: Milling Machine		
Restricted Funds		130,000
v. Mayo Technical College: Johnson Phaser - Shape Cutter		
Restricted Funds		150,000

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2000-01	2001-02
1. Department of Insurance		
a. Franklin County - Lease		
2. Public Advocacy		
a. Franklin County - Lease		
3. Housing, Buildings and Construction		
a. Franklin County - Lease		

N. REVENUE CABINET

Budget Unit	2000-01	2001-02
1. Office of the Secretary		
a. Network Infrastructure Replacement		
Capital Construction Surplus		200,000
b. Franklin County - Lease		
c. Franklin County - Lease		
d. Franklin County - Lease		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	1999-00	2000-01	2001-02

The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

1. Office of the Secretary

a. Elizabethtown State Theater
Reauthorization and Reallocation ($1,000,000 - Bond Funds)

b. Hardin County Public Library
Reauthorization and Reallocation ($300,000 -Bond Funds)

c. Lincoln Trail Domestic Violence Center
Reauthorization and Reallocation ($250,000 - Bond Funds)

d. Patton Museum Expansion Project
Reauthorization and Reallocation ($200,000 - Bond Funds)

e. Vaughn Reno Starks Community Center
Reauthorization and Reallocation ($200,000 - Bond Funds)

f. Wesley Hilltop House
Reauthorization and Reallocation ($50,000 - Bond Funds)

The projects cited immediately above are authorized from a reallocation of the Coca Cola Museum project in Hardin County appropriated by the 1998 Regular Session of the General Assembly in the amount of $2,000,000 in Bond Funds.

	g.	Western Kentucky Information/Tourism Center			
		Reauthorization ($200,000 - General Fund)			
2.		Kentucky State Fair Board			
	a.	Roof Replacement			
		Restricted Funds		800,000	
	b.	Freedom Hall - Refurbish Seats			
		Restricted Funds		800,000	
	c.	Freedom Hall - Portable Trailers			
		Restricted Funds			1,250,000
	d.	Maintenance Pool			
		Restricted Funds		1,000,000	1,000,000
3.		Department of Fish and Wildlife Resources			
	a.	Land Acquisition			
		Restricted Funds		500,000	500,000
	b.	Maintenance Pool			
		Restricted Funds		200,000	200,000
4.		Kentucky Horse Park			
	a.	Muck Processing Facility			
		Bond Funds		375,000	
	b.	Maintenance Pool			
		Investment Income		375,000	475,000
5.		Department of Parks			
	a.	Maintenance Pool			
		Investment Income		4,200,000	4,200,000
	b.	Barren River HVAC Upgrade			
		General Fund			
		Additional	200,000		
	c.	Nolin Park - Campground/Infrastructure			
		Reauthorization			
	d.	Natural Bridge - Remediation Petroleum Contamination			
		Deferred Maintenance		300,000	
	e.	Yatesville - Golf Course Development			
		Reauthorization			
	f.	Grayson Lake - Golf Course Design/Development			
		Reauthorization			
	g.	Taylorsville Lake - Community Pool Design			
		Reauthorization			
	h.	Jefferson Davis Monument- Repairs			
		Emergency Repair Maintenance			
		Additional	2,210,000		
	i.	Mineral Mound - Golf Course Development			
		Reauthorization			
	j.	Kincaid Lake - Golf Course Development (Nine Hole) and other park improvements			
		Reauthorization			

k.	Pennyrile - Golf Course Development		
	Reauthorization		
l.	Dale Hollow - Golf Course Development		
	Reauthorization		
m.	My Old Kentucky Home - Golf Course Development		
	Reauthorization		
n.	Columbus - Belmont - Park Development		
	Reauthorization		
o.	Fort Boonesborough - Reroof Fort Buildings		
	Bond Funds	500,000	
p.	Lake Barkley - Park Improvements		
	Reauthorization		

P. TRANSPORTATION CABINET

Budget Unit		2000-01	2001-02
1.	General Administration and Support		
a.	Transportation Building Parking Structure - New Construction		
	Bond Funds	20,700,000	
b.	Boone County Maintenance Building		
	Road Fund		515,000
c.	Powell County Maintenance Facility		
	Road Fund	900,000	
d.	Mason County Maintenance Facility		
	Road Fund		710,000
e.	Loadometer & Rest Area Maintenance and Repair		
	Road Fund	600,000	600,000
f.	Building Renovation & Emergency Repairs		
	Road Fund	500,000	500,000
g.	Painting and Roof Replacement		
	Road Fund	250,000	250,000
h.	Various Salt Storage Structures and Repair		
	Road Fund	250,000	250,000
i.	Various Waste Treatment & Water Supply Projects		
	Road Fund	100,000	100,000
j.	Hydraulic Hoists, Heavy Equipment		
	Road Fund		100,000
k.	New Transportation Office Building		
	Reauthorization		
	Bond Funds - Additional	7,500,000	
l.	Campbell County Maintenance Facility		
	Road Fund	500,000	
	Restricted Funds	465,000	
	Total	965,000	
m.	Elizabethtown District Office Building		
	Road Fund	3,810,000	
n.	Road Maintenance/Various Parks		
	Road Fund	2,000,000	500,000
o.	Electronic Digital Surveying Systems		
	Road Fund	225,000	

p.	Weigh in Motion/Traffic Data Collection Equipment		
	Road Fund	310,000	320,000
q.	Direct Tension Tester for Asphalt		
	Road Fund	140,000	
r.	Soil Resilient Modulus Testing System		
	Road Fund		264,000
s.	X-Ray Fluorescence & X-Ray Diffraction Analyzers		
	Road Fund	155,000	220,000
t.	Mail Inserter/Burster Machine		
	Road Fund	130,000	
u.	MVE Mobile Computers and Peripherals		
	Road Fund		1,000,000
v.	Conversion & Web Pub. of Microfilm Plans		
	Road Fund		325,000
w.	Digitized Drivers Licensing		
	Reauthorization		
	Road Fund -Additional	180,000	2,160,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit		2000-01	2001-02
1.	General Administration and Program Support		
a.	Maintenance Pool		
	Investment Income	250,000	425,000
2.	Vocational Rehabilitation		
a.	Franklin County - Lease		
b.	Carl D. Perkins Center: Rooftop Unit Replacement		
	Deferred Maintenance	369,000	
3.	Department for the Blind		
a.	Franklin County - Lease		
4.	Office of Training and Reemployment		
a.	Franklin County - Lease		

R. COMMUNITY DEVELOPMENT PROJECTS

1. GOVERNMENT OPERATIONS

Budget Unit	Local Government	2000-01
Allen County		
a.	Allen County Volunteer Fire Department	
	Bond Funds	125,000
b.	Allen County Water District	
	Bond Funds	150,000
Anderson County		
c.	Anderson County Park	
	Bond Funds	500,000
d.	Lawrenceburg Library Project	
	Bond Funds	350,000
Ballard County		
e.	Ballard County Volunteer Fire Department	
	Bond Funds	50,000
f.	Bandana Park	
	General Fund	5,000

	g.	Infrastructure Improvement and Construction of Spec. Building at Wickliffe	
		Bond Funds	450,000
Barren County			
	h.	Glasgow Parks Department	
		Bond Funds	50,000
	i.	Highland Games	
		General Fund	100,000
	j.	Hiseville City	
		General Fund	25,000
	k.	Park City Park	
		Bond Funds	25,000
Bath County			
	l.	Bath County Water Project Extension	
		Bond Funds	50,000
	m.	Flat Creek/Sharpsburg Water Project	
		Bond Funds	50,000
	n.	Pendleton Branch Water Project	
		Bond Funds	50,000
	o.	Preston Sewer Project	
		Bond Funds	150,000
Bourbon County			
	p.	Ball Fields	
		Bond Funds	75,000
	q.	Bourbon County Fire Gates Numbers	
		Bond Funds	74,000
	r.	Centerhill/Hutchinson Volunteer Fire Department	
		Bond Funds	80,000
	s.	Centerville Septic System	
		Bond Funds	98,000
	t.	Farmers' Market Building	
		Bond Funds	178,000
	u.	Hazardous Materials Cleanup	
		General Fund	50,000
	v.	Little Rock Water Lines	
		Bond Funds	64,000
	w.	Ruddles Mill Water Lines	
		Bond Funds	68,000
	x.	Volunteer Fire Departments	
		Bond Funds	313,000
Boyd County			
	y.	Ashland National Little League Project	
		General Fund	75,000
	z.	Boyd County Parks and Recreation	
		Bond Funds	90,000
	aa.	Boyd County Volunteer Fire Departments	
		Bond Funds	90,000
	ab.	Catlettsburg Baseball Field	
		Bond Funds	25,000

ac.	Highlands Museum		
	Bond Funds	200,000	
ad.	Summer Motion		
	General Fund	10,000	10,000
Boyle County			
ae.	Millennium Park		
	Bond Funds	475,000	
af.	Wilderness Trace Child Development Center		
	Bond Funds	50,000	
Bracken County			
ag.	Bracken County Water Lines		
	Bond Funds	30,000	
ah.	Germantown Fire Department		
	Bond Funds	100,000	
ai.	City of Brooksville - City Swimming Pool Renovations to be matched locally		
	Bond Funds	40,000	
Caldwell County			
aj.	Caldwell County Airport Expansion		
	Bond Funds	75,000	
ak.	Caldwell County Historical Society/Amoss House Project		
	Bond Funds	9,000	
al.	Caldwell County Senior Citizens Building		
	Bond Funds	150,000	
am.	Caldwell County/Princeton Water District		
	Bond Funds	240,000	
an.	Caldwell EMS Ambulance		
	Bond Funds	65,000	
ao.	Fredonia Fire Department/Jaws of Life		
	Bond Funds	11,000	
Calloway County			
ap.	East Calloway County Water Extension		
	Bond Funds	100,000	
aq.	Emergency County Road Improvement		
	Bond Funds	50,000	
ar.	Hazel Fire Department		
	Bond Funds	50,000	
as.	Murray/Calloway County Fire and Rescue		
	Bond Funds	150,000	
at.	Murray/Calloway County Industrial Development Authority		
	Bond Funds	500,000	
au.	Murray/Calloway County Parks Improvement		
	Bond Funds	150,000	
Campbell County			
av.	Bellevue Community Center		
	Bond Funds	500,000	
aw.	Dayton Community Center		
	Bond Funds	500,000	

ax.	L & N Bridge - Newport	
	Bond Funds	4,000,000
Carlisle County		
ay.	Volunteer Fire Department	
	Bond Funds	50,000
Casey County		
az.	Casey County Jail	
	Bond Funds	500,000
Clay County		
ba.	911 Center	
	Bond Funds	50,000
bb.	Burchell Softball Little League	
	Bond Funds	25,000
bc.	Burning Springs	
	Bond Funds	25,000
bd.	Clay County Community Center/Land Acquisition	
	Bond Funds	250,000
be.	Clay County Historical Society	
	Bond Funds	15,000
bf.	Clay County Library	
	Bond Funds	10,000
bg.	Downtown Manchester	
	Bond Funds	175,000
bh.	Fire Department	
	Bond Funds	50,000
bi.	Manchester Civic/Education Center	
	Bond Funds	275,000
bj.	Manchester Recreation	
	Bond Funds	25,000
bk.	Manchester Water and Waste	
	Bond Funds	300,000
bl.	Manchester Young Women Club	
	Bond Funds	25,000
bm.	Senior Citizens	
	Bond Funds	25,000
Crittenden County		
bn.	Crittenden County Fire and Rescue Departments	
	Bond Funds	280,000
bo.	Crittenden County/Marion Park	
	Bond Funds	30,000
bp.	Marion Sewer Project	
	Bond Funds	40,000
Daviess County		
bq.	English Park Docking Facility	
	Bond Funds	1,300,000
br.	Shelton Freedom Memorial Commission	
	Bond Funds	50,000
Edmonson County		

bs.	Brownsville Natural Gas Line		
	Bond Funds	125,000	
bt.	Edmonson County Environmental Study		
	General Fund	50,000	
bu.	Edmonson County Parks Improvement		
	Bond Funds	100,000	
Elliott County			
bv.	Elliott County Board of Education/Pool Project		
	Bond Funds	750,000	
bw.	Elliott County Public Library		
	General Fund	25,000	
bx.	Elliott County School Board/Playground		
	Bond Funds	50,000	
by.	Sandy Hook Beautification Project		
	General Fund	25,000	25,000
bz.	Elliot County Ambulance Service - Equipment and Operating		
	General Fund	25,000	
ca.	Volunteer Fire Departments		
	Bond Funds	100,000	
Estill County			
cb.	Sewer System Upgrade		
	Bond Funds	400,000	
Floyd County			
cc.	Prestonsburg Development Project		
	Bond Funds	3,000,000	
Fulton County			
cd.	Fulton County Volunteer Fire Department		
	Bond Funds	50,000	
ce.	Hickman/Fulton County Riverport		
	Bond Funds	450,000	
Gallatin County			
cf.	Water Line Extension		
	Bond Funds	250,000	
Grant County			
cg.	Grant County Public Library		
	Bond Funds	750,000	
ch.	Grant County Rural Water Extensions		
	Bond Funds	250,000	
Graves County			
ci.	Graves County Municipal Building		
	Bond Funds	250,000	
cj.	Graves County Volunteer Fire Department		
	Bond Funds	150,000	
ck.	Mayfield/Graves County Airport		
	Bond Funds	100,000	
cl.	Mayfield/Graves County Parks Association		
	Bond Funds	125,000	

cm.	Mayfield/Graves Youth Soccer	
	Bond Funds	125,000
cn.	North Graves Sanitary Sewer Project	
	Bond Funds	400,000
Green County		
co.	Fire and Rescue Building - Greensburg	
	Bond Funds	50,000
cp.	Green County Water	
	Bond Funds	225,000
Hardin County		
cq.	Adult Day Rehabilitation Program Facility	
	Bond Funds	75,000
cr.	After-school and Recreational Programs - Upton	
	General Fund	75,000
cs.	Annual "Golden Armor Festival"	
	General Fund	25,000
ct.	Challenger Learning Center	
	Bond Funds	360,000
cu.	Chamber Meeting and Exhibition Room	
	Bond Funds	25,000
cv.	City Hall Improvement, Vine Grove	
	Bond Funds	50,000
cw.	Community Center, Vine Grove	
	Bond Funds	300,000
cx.	Duvall Softball/Baseball Park	
	General Fund	5,000
cy.	Elizabethtown Community College	
	General Fund	40,000
cz.	Fire Department Rescue Truck and Facility Renovation	
	Bond Funds	50,000
da.	Hardin County Supported Living Program	
	General Fund	300,000
db.	Helping Hand Organization	
	Bond Funds	25,000
dc.	Kids Voting Program of Hardin County	
	General Fund	50,000
dd.	Mobile Command Post for Fire and Police Department	
	Bond Funds	50,000
de.	New Hope Missionary Baptist Church	
	Bond Funds	25,000
df.	One Four Wheel-Drive Police Vehicle	
	Bond Funds	25,000
dg.	Playground Equipment for Woodland Elementary	
	Bond Funds	25,000
dh.	Radcliff City Park Land Purchase	
	Bond Funds	50,000
di.	Rape Crisis Center	
	General Fund	70,000

dj.	Saunder Springs	
	Bond Funds	20,000
dk.	Sidewalks for Cecilia	
	Bond Funds	100,000
dl.	Sister City Program	
	General Fund	5,000
dm.	Veterans Programs	
	General Fund	5,000
dn.	Volunteer Fire Departments	
	Bond Funds	390,000
do.	YMCA Feasibility Study	
	General Fund	20,000
Harlan County		
dp.	Tri-City Clinic (Appalachian Regional Hospital) Cumberland	
	Bond Funds	500,000
Hart County		
dq.	Civil War Battlefield Project	
	Bond Funds	100,000
dr.	Hart County Fire Departments	
	Bond Funds	300,000
Henderson County		
ds.	City of Henderson Building Purchase	
	Bond Funds	1,500,000
Henry County		
dt.	Henry County Disaster and Emergency Services Office Building	
	Bond Funds	150,000
Hickman County		
du.	Hickman County Volunteer Fire Department	
	Bond Funds	50,000
Hopkins County		
dv.	Dawson Springs Swimming Pool	
	Bond Funds	650,000
Jefferson County		
dw.	Cardinal Park	
	Bond Funds	350,000
dx.	Exploited Children Help Organization (ECHO)	
	General Fund	9,000
dy.	Home of the Innocents	
	Bond Funds	7,000,000
dz.	Iroquois Amphitheatre	
	Bond Funds	4,600,000
ea.	Louisville Oral School	
	Bond Funds	1,000,000
eb.	Neighborhood House	
	Bond Funds	700,000
ec.	Presbyterian Community Center	

	Bond Funds	300,000	
ed.	Project for Women		
	General Fund	25,000	
ee.	St. Williams Center		
	General Fund	200,000	
ef.	Summerbridge		
	General Fund	150,000	
eg.	Visually Impaired Preschool		
	General Fund	100,000	
Jessamine County			
eh.	Jessamine County Park and Aquatic Center		
	Bond Funds	950,000	
ei.	Roy Peterson Study Center		
	Bond Funds	50,000	
Kenton County			
ej.	Covington Youth Sports Complex		
	Bond Funds	200,000	
ek.	Independence City Park		
	Bond Funds	200,000	
el.	Taylor Mill Pride Park		
	Bond Funds	150,000	
Larue County			
em.	Buffalo Fire Department		
	Bond Funds	65,000	
en.	Hodgenville Fire Department		
	Bond Funds	65,000	
eo.	Magnolia Fire Department		
	Bond Funds	65,000	
Laurel County			
ep.	Laurel County Water		
	Bond Funds	250,000	
Lawrence County			
eq.	Blaine Community Center and Park Enhancement		
	Bond Funds	110,000	
er.	Lawrence County Fiscal Court Stella/Moore Rec. Complex		
	Bond Funds	75,000	
es.	Lawrence County School System Enhancement		
	Bond Funds	160,000	
et.	Lawrence County Volunteer Fire Department		
	Bond Funds	105,000	
eu.	Louisa Beautification and September Festival		
	General Fund	25,000	25,000
Lee County			
ev.	City of Beattyville		
	Bond Funds	150,000	
ew.	Lee County Airport Authority		
	Bond Funds	150,000	
ex.	Lee County Water and Sewer Expansion		

	Bond Funds	200,000
Leslie County		
ey.	City of Hyden	
	Bond Funds	50,000
ez.	Leslie County Board of Education	
	General Fund	110,000
fa.	Leslie Senior Citizens	
	Bond Funds	25,000
fb.	Leslie Vocational Tech Center	
	General Fund	17,000
fc.	Leslie Volunteer Fire Department	
	Bond Funds	50,000
Letcher County		
fd.	Letcher County Water	
	Bond Funds	250,000
Livingston County		
fe.	Crittenden/Livingston Water District	
	Bond Funds	100,000
ff.	Grand River Water District	
	Bond Funds	50,000
fg.	Livingston County Fire Districts	
	Bond Funds	60,000
fh.	Livingston County Recreational Complex and Boat Ramps	
	Bond Funds	40,000
fi.	Livingston Convalescence Center	
	Bond Funds	35,000
fj.	Livingston EMS Ambulance	
	Bond Funds	65,000
Madison County		
fk.	Richmond Area Arts Center	
	Bond Funds	200,000
Magoffin County		
fl.	Magoffin County Administrative Office Building	
	Bond Funds	300,000
fm.	Magoffin County Community Program	
	Bond Funds	20,000
fn.	Magoffin Volunteer Fire Department	
	Bond Funds	80,000
fo.	Senior Citizens	
	Bond Funds	50,000
fp.	Senior Citizens Vehicles	
	Bond Funds	50,000
Marion County		
fq.	Emergency Service Center	
	Bond Funds	500,000
fr.	Kedron Bridge	
	Bond Funds	500,000
Martin County		

fs.	Martin County Rescue Squad	
	Bond Funds	50,000
Mason County		
ft.	Maysville Convention Center	
	Bond Funds	450,000
fu.	Maysville Underground Railroad Building Renovation	
	Bond Funds	150,000
McLean County		
fv.	Island Wooden Bridge Park	
	Bond Funds	50,000
fw.	Livermore River Park	
	Bond Funds	50,000
Meade County		
fx.	Tourism and Economic Development	
	General Fund	250,000
Mercer County		
fy.	Burgin Drinking Water Enhancement	
	Bond Funds	100,000
fz.	Mercer County Senior Citizen Center	
	Bond Funds	75,000
ga.	Mercer County Park Improvements	
	Bond Funds	800,000
Metcalfe County		
gb.	City of Edmonton	
	Bond Funds	400,000
Montgomery County		
gc.	Community Center Funding	
	Bond Funds	2,000,000
Nelson County		
gd.	Wickland Mansion Project	
	Bond Funds	500,000
Nicholas County		
ge.	Dixie Highway Water Lines	
	Bond Funds	60,000
gf.	Johnson Road Water Lines	
	Bond Funds	60,000
gg.	Milltown Water Project	
	Bond Funds	65,000
gh.	Nicholas County Health Department	
	Bond Funds	250,000
Ohio County		
gi.	Ohio County Water Funds	
	Bond Funds	250,000
Owen County		
gj.	Road Barn and Ambulance Center	
	Bond Funds	225,000
Pendleton County		
gk.	Pendleton County Civic Center	

	Bond Funds	250,000
gl.	Sewer District Project	
	Bond Funds	250,000
Pike County		
gm.	Ballfork and Mayfork Water	
	Bond Funds	127,000
Powell County		
gn.	Powell County Ambulance Service	
	Bond Funds	500,000
Robertson County		
go.	Mt. Olivet Police Department	
	Bond Funds	10,000
gp.	Robertson County Life Squad	
	Bond Funds	65,000
gq.	Robertson County Public Library	
	Bond Funds	175,000
Rowan County		
gr.	City of Lake View Heights	
	Bond Funds	75,000
gs.	Rowan Regional Industrial Park Fire Department	
	Bond Funds	400,000
Scott County		
gt.	Buffalo Spring Park	
	Bond Funds	80,000
gu.	Cultural Arts Center	
	Bond Funds	55,000
gv.	Depot Restoration	
	Bond Funds	40,000
gw.	Scott County Reservoir	
	Bond Funds	825,000
Simpson County		
gx.	Franklin/Simpson Industrial Park Development	
	Bond Funds	750,000
gy.	Goodnight Memorial Library	
	Bond Funds	250,000
STATEWIDE PROJECTS		
gz.	World War II Memorial	
	Bond Funds	312,000
Trigg County		
ha.	Industrial Park and Water Sewer Improvements	
	Bond Funds	200,000
hb.	Trigg Rural Fire Department	
	Bond Funds	50,000
Union County		
hc.	21st Century Training Classroom	
	Bond Funds	500,000
hd.	Union County Fairgrounds Convention Center	
	Bond Funds	500,000

Warren County		
he.	Bowling Green Sidewalks	
	Bond Funds	30,000
hf.	Gott Community Center, Inc.	
	Bond Funds	15,000
hg.	Oakland Street Repairs and Paving	
	Bond Funds	100,000
hh.	Plum Springs Street Improvements	
	Bond Funds	50,000
hi.	Smiths Grove City Hall Expansion	
	Bond Funds	75,000
Washington County		
hj.	Mackville Community Park	
	Bond Funds	145,000
hk.	Willisburg Community Park	
	Bond Funds	305,000
Webster County		
hl.	Sebree Spring Park Swimming	
	Bond Funds	50,000
Wolfe County		
hm.	Campton Library	
	Bond Funds	175,000
hn.	City of Campton Equipment Purchase	
	Bond Funds	50,000
ho.	Volunteer Fire Department	
	Bond Funds	50,000
hp.	Water Plant Renovation	
	Bond Funds	175,000
hq.	West Campton Water Pump Station	
	Bond Funds	50,000
Woodford County		
hr.	Community Center - Versailles	
	Bond Funds	1,000,000
2.	EDUCATION, ARTS, AND HUMANITIES CABINET	
Budget Unit	Office of the Secretary	2000-01
McCracken County		
a.	Four Rivers Center	
	Bond Funds	5,750,000
Warren County		
b.	Capitol Arts Center-Bowling Green	
	Bond Funds	6,750,000
3.	EDUCATION	
Budget Unit	Management Support Services	2000-01
Lincoln County		
a.	Lincoln County Technical Center	
	Bond Funds	2,500,000
4.	ECONOMIC DEVELOPMENT CABINET	
Budget Unit	Economic Development	2000-01

Hardin County			
a.	Radcliff/Vine Grove Industrial Park		
	Bond Funds	1,000,000	
Jefferson County			
b.	Louisville Waterfront Development Corporation Phase II		
	Bond Funds	12,500,000	
c.	Louisville Medical Center Development		
	Bond Funds	5,000,000	

5. FINANCE AND ADMINISTRATION CABINET

Budget Unit	General Administration	2000-01	
Adair County			
a.	Adair County Water Development		
	Bond Funds	250,000	
Allen County			
b.	Allen County Fiscal Court - Water Line Extension for Agricultural, Business and Residential Use		
	Bond Funds	125,000	
c.	Allen County Fiscal Court Facilities Improvement and Equipment at each of six Rural Volunteer Fire Departments		
	Bond Funds	150,000	
d.	Allen County Schools Vocational Center - New Computer Lab		
	Bond Funds	75,000	
Anderson County			
e.	Anderson County Water Projects		
	Bond Funds	350,000	
Barren County			
f.	Glasgow Sewer and Water		
	Bond Funds	700,000	
Boyd County			
g.	Ashland School System, Boyd School System, and Fairview Independent School System - Athletic Facilities Improvements and Enhancements ($100,000 each)		
	Bond Funds	300,000	
h.	Boyd County Fiscal Court - Boyd County Fair Operations and Improvements		
	General Fund	25,000	25,000
Boyle County			
i.	Hub Frankel Building		
	Bond Funds	1,000,000	
Bullitt County			
j.	Bullitt County Water and Sewer Line Expansion		
	Bond Funds	1,000,000	
k.	Brooks Sewer Plants		
	Bond Funds	300,000	
Butler County			
l.	Butler County Water Project		

	Bond Funds	250,000
Campbell County		
m.	City of Bellevue Fire Department	
	General Fund	50,000
n.	City of Dayton Fire Department	
	General Fund	50,000
o.	City of Newport Fire Department	
	General Fund	75,000
p.	City of Southgate Fire Department	
	General Fund	50,000
q.	City of Wilder Fire Department	
	General Fund	50,000
r.	City of Woodlawn Fire Department	
	General Fund	25,000
Carlisle County		
s.	Carlisle County Sewer Project	
	Bond Funds	450,000
Carter County		
t.	Carter County Water Project	
	Bond Funds	1,000,000
Casey County		
u.	Casey County Senior Citizens Building	
	Bond Funds	220,000
v.	Casey County Police Equipment	
	Bond Funds	62,000
Christian County		
w.	Christian County Convention Center	
	Bond Funds	6,750,000
Clark County		
x.	State Office Building	
	Bond Funds	1,000,000
y.	Clark County Tourism, Recreation and Convention Commission	
	Bond Funds	25,000
z.	Winchester Civil War Site	
	Bond Funds	25,000
aa.	Clark County School Extra Curricular Activities	
	Bond Funds	10,000
ab.	Clark County School Board Technology Improvements	
	Bond Funds	30,000
ac.	Clark County Heritage Commission - Lower Howard's Creek Project	
	Bond Funds	25,000
ad.	College Park Gym Renovation - Phase I First Floor Construction	
	Bond Funds	1,000,000
Clay County		

ae.	Campbell - Reid Alternative School		
	Bond Funds	250,000	
af.	Clay County High School - Youth Services Dropout Program		
	Bond Funds	50,000	
ag.	Clay County Learning Outreach Program		
	Bond Funds	50,000	
Estill County			
ah.	City of Ravenna - Budget Shortfall		
	General Fund	20,000	
Fayette County			
ai.	Convention Center/Rupp Arena		
	Bond Funds	15,000,000	
aj.	Johnson Community Center		
	Bond Funds	1,700,000	
ak.	Kentucky Aviation Museum		
	Bond Funds	300,000	
al.	Bryan Station High School - Wellness/Fitness		
	Bond Funds	100,000	
am.	Northern Elementary - Creative Playground		
	Bond Funds	125,000	
an.	Lexington/Fayette County Parks		
	Bond Funds	1,000,000	
Fleming County			
ao.	Water Resources and Land Acquisition		
	Bond Funds	1,000,000	
Floyd County			
ap.	Jenny Wiley Scenic Club - Wave Reduction Barrier at Dewey Lake		
	General Fund	50,000	
aq.	Samuel May House Enhancements		
	General Fund	50,000	
ar.	Mountain Arts Center - Pay Off Bonds		
	General Fund	2,000,000	
as.	Motor Vehicle Commission - New Inspector for Car Lots for East Kentucky		
	General Fund	50,000	50,000
at.	Jenny Wiley - Construction and Dredging of new Boat Ramp		
	Bond Funds	500,000	
au.	Martin Community Center - Construction		
	Bond Funds	929,500	
av.	Martin Community Center - Operations		
	General Fund		496,500
Franklin County			
aw.	Holmes Street Drainage Project		
	Bond Funds	3,000,000	
Garrard County			

ax.	City of Lancaster-Garrard County Garden Club Beautification Project		
	General Fund	30,000	
ay.	Lancaster Rural Water Intake		
	Bond Funds	500,000	
az.	Lancaster Ball Park		
	Bond Funds	25,000	
ba.	City of Lancaster		
	Bond Funds	200,000	
Graves County			
bb.	Graves County Board of Education - Recreational Enhancements		
	General Fund	50,000	
bc.	Women's Group Home		
	Bond Funds	275,000	
Green County			
bd.	Green County Water Line Extensions		
	Bond Funds	500,000	
Hancock County			
be.	Hancock County Fire and Rescue Building		
	Bond Funds	50,000	
Hardin County			
bf.	Water System Improvements for Rineyville Area		
	Bond Funds	1,200,000	
Harlan County			
bg.	Blanton Forest Acquisition		
	General Fund	300,000	300,000
bh.	Harlan County Jail Design and Construction		
	Bond Funds	500,000	
bi.	Harlan County Garage		
	Bond Funds	200,000	
bj.	Black Mountain Water District - Water Line Extension		
	Bond Funds	500,000	
bk.	Cawood Water District-Extend Water Lines from Ross Point to Letcher County		
	Bond Funds	500,000	
bl.	Harlan County & City of Cumberland jointly to extend water lines from Ross Point to Letcher County		
	Bond Funds	500,000	
bm.	Green Hill Water District-Water Line Extension - Isaacs Creek, Big Low Road, and Little Shephard Trail		
	Bond Funds	500,000	
Harrison County			
bn.	Industrial Park Road		
	Bond Funds	1,000,000	
Hart County			
bo.	Hart County Waterlines		

	Bond Funds	500,000	
bp.	Hart County Historic Thomas House		
	Bond Funds	100,000	
Henry County			
bq.	Henry County Water Line Extensions/Campbellsburg Sewer Project		
	Bond Funds	350,000	
Jefferson County			
br.	Office of Technology and Information - Two Pilot Projects		
	Bond Funds	250,000	
bs.	Lil Angels Child Care Center Expansion		
	Bond Funds	100,000	
bt.	West Louisville Talent Education Center - Musical Equipment		
	Bond Funds	50,000	
bu.	Kentucky Autism Center U of L		
	General Fund	250,000	250,000
bv.	Rosenberger House Renovation		
	Bond Funds	100,000	
bw.	Farnsley Kaufman House Renovation		
	Bond Funds	115,000	
bx.	Belle of Louisville-Operations, Maintenance, Equipment		
	General Fund	200,000	200,000
by.	Project Women GED		
	General Fund	25,000	25,000
bz.	House of Ruth		
	General Fund	25,000	25,000
ca.	Wilder Park Neighborhood Association - Roofing/Parking Maintenance		
	Bond Funds	25,000	
cb.	St. John Vianney Community Day Care Interpreter Pool		
	General Fund		40,000
cc.	St. John Vianney Community Day Care Maintenance Pool		
	Bond Funds	40,000	
cd.	Harbor House Building Funds		
	Bond Funds	100,000	
ce.	City of Shively Community Center		
	Bond Funds	300,000	
cf.	City of Shively Fire Trucks		
	Bond Funds	100,000	
cg.	Neighborhood Housing Services		
	Bond Funds	58,000	
ch.	Kentucky One Church/One Child		
	Bond Funds	100,000	
ci.	Kling Center Community Outreach		

	General Fund	100,000	100,000
Johnson County			
cj.	Johnson County Water Lines		
	Bond Funds	500,000	
Kenton County			
ck.	Edgewood Sidewalk Turkey Foot Road		
	Bond Funds	10,000	
cl.	Edgewood School Crossing Lights		
	Bond Funds	5,000	
cm.	Edgewood Veterans Memorial		
	Bond Funds	15,000	
cn.	Crestview Hills-Turn Lane Turkey Foot		
	Bond Funds	100,000	
co.	Crestview Hills-Sidewalks Dixie Highway		
	Bond Funds	100,000	
cp.	Villa Hills Sidewalks-Collins Road		
	Bond Funds	100,000	
cq.	Ft. Wright Sidewalks - Highland Avenue		
	Bond Funds	35,000	
cr.	Ft. Wright Amsterdam Road Street Repair		
	Bond Funds	100,000	
cs.	Lakeside Park Sidewalk - Dixie Highway		
	Bond Funds	20,000	
ct.	Lakeside Park Street Repair		
	Bond Funds	20,000	
cu.	Ft. Mitchell Sidewalks - Royal Drive		
	Bond Funds	50,000	
cv.	Ft. Mitchell Park at Crescent		
	Bond Funds	150,000	
cw.	Crescent Springs - Basketball Court		
	Bond Funds	15,000	
cx.	Crescent Springs - Cruler Avenue		
	Bond Funds	40,000	
cy.	Crescent Springs Periwinkle Street		
	Bond Funds	28,000	
cz.	Crescent Springs Drain Sewers		
	Bond Funds	10,000	
da.	Park Hills - Notre Dame to St. Joseph-Sidewalks		
	Bond Funds	35,000	
db.	Park Hils - Covington Catholic to Arlington - Sidewalks		
	Bond Funds	35,000	
Knott County			
dc.	Hindman City Hall		
	Bond Funds	100,000	
dd.	Hindman Water Tank		
	Bond Funds	200,000	
de.	Troublesome Creek Sewer		

	Bond Funds	600,000
Knox County		
df.	Water Project - Barbourville Water and Electric - Johnson Hollow	
	Bond Funds	10,000
dg.	Water Project - Barbourville Water and Electric - Hammons Fork	
	Bond Funds	20,000
dh.	Water Project - Barbourville Water and Electric - Turkey Creek	
	Bond Funds	60,000
di.	Water Project - Barbourville Water and Electric - Emanuel	
	Bond Funds	10,000
dj.	Water Project - Barbourville Water and Electric - Shephen Trace	
	Bond Funds	75,000
dk.	Water Project-Barbourville Water and Electric - Hunting Shirt	
	Bond Funds	5,000
dl.	Water Project-Barbourville Water and Electric - N.HWYII - Main Line Extension	
	Bond Funds	10,000
dm.	Water Project - Corbin City Water - Hart Road	
	Bond Funds	40,000
dn.	Water Project - East Knox Water - Buckeye	
	Bond Funds	10,000
do.	Water Project - East Knox Water - Macro Branch	
	Bond Funds	7,500
dp.	Water Project - East Knox Water - David Branch	
	Bond Funds	7,500
dq.	Water Project - East Knox Water - Morse Creek	
	Bond Funds	10,000
dr.	Water Project - East Knox Water - Rickett Branch	
	Bond Funds	7,500
ds.	Water Project - East Knox Water - Goodin Branch	
	Bond Funds	20,000
dt.	Water Project - East Knox Water - Lick Branch	
	Bond Funds	10,000
du.	Water Project - East Knox Water - Stoney Fork	
	Bond Funds	20,000
dv.	Water Project - East Knox Water - Laure Branch	
	Bond Funds	5,000
dw.	Water Project - East Knox Water - Big Creek 718	
	Bond Funds	10,000
dx.	Water Project - East Knox Water - J. Goodin Branch	
	Bond Funds	6,000
dy.	Water Project - East Knox Water - Trace Branch	

	Bond Funds	6,500
dz.	Knox County Health Department	
	Bond Funds	50,000
ea.	Knox County Ambulance Service-Purchase Ambulance	
	Bond Funds	50,000
eb.	Knox County EOC Community Action	
	Bond Funds	20,000
ec.	Knox County EOC Community Action - Emergency Fund Service for purchase of computer	
	General Fund	5,000
ed.	Fire Department-Divide equally among eight Fire Departments	
	General Fund	50,000
Larue County		
ee.	Waterline Extension	
	Bond Funds	400,000
Laurel County		
ef.	Laurel County Senior Citizens	
	Bond Funds	25,000
eg.	Laurel County Fire Department	
	Bond Funds	50,000
eh.	Laurel County Drop Out	
	Bond Funds	50,000
Leslie County		
ei.	Leslie County School Board Extra Curricular Activities	
	Bond Funds	30,000
Letcher County		
ej.	Community Park at Ashcamp	
	Bond Funds	100,000
ek.	Volunteer Fire Departments	
	Bond Funds	300,000
el.	Public Library in Jenkins	
	Bond Funds	200,000
em.	Water Line Extensions for Whitesburg	
	Bond Funds	500,000
Lewis County		
en.	Concord Water Line Extension	
	Bond Funds	350,000
eo.	Lewis County Water Project	
	Bond Funds	100,000
Logan County		
ep.	Logan Todd Water Commission Project	
	Bond Funds	500,000
Lyon County		
eq.	Lyon County Water Projects	
	Bond Funds	200,000
Madison County		

er.	Ducannon Lane Water Project	
	Bond Funds	2,400,000
es.	Madison County Rural Sanitary Sewer	
	Bond Funds	2,400,000
Marion County		
et.	Police Building	
	Bond Funds	150,000
Martin County		
eu.	Martin County Water Projects	
	Bond Funds	450,000
Meade County		
ev.	Expansion Meade County Water System	
	Bond Funds	500,000
ew.	Meade County Ambulance Service Emergency Medical Technician Building	
	Bond Funds	100,000
ex.	Meade Olin Park Improvements, Concession Stands Locker rooms, Bathroom Facilities	
	Bond Funds	100,000
ey.	Meade County Industrial Park Development of 24 Acre site and Building	
	Bond Funds	250,000
ez.	City of West Point - Develop and Promote Tourism and Economic Development Commission	
	General Fund	50,000
fa.	Meade County Public Library - Installation & Upgrade of Technical Information Services	
	Bond Funds	50,000
fb.	City of Brandenburg - Completion of Water Treatment Plant	
	Bond Funds	200,000
Menifee County		
fc.	Frenchurg & Menifee County Regional Water Study	
	General Fund	50,000
fd.	Regional Water and Sewer Project	
	Bond Funds	500,000
Mercer County		
fe.	Boone Drama	
	Bond Funds	75,000
ff.	Mercer County Fair Board - Barn Replacement	
	Bond Funds	75,000
Montgomery County		
fg.	Montgomery and Morgan Mid School Tech Project	
	Bond Funds	140,000
Morgan County		
fh.	Morgan County Bridge Project	
	Bond Funds	200,000
fi.	Morgan County Water	

	Bond Funds	800,000
Muhlenberg County		
fj.	City of Greenville Sewer Plant Expansion	
	Bond Funds	500,000
fk.	Muhlenberg County Water District	
	Bond Funds	100,000
fl.	Powderly Sewer Collection System	
	Bond Funds	200,000
fm.	Lake Malone State Park-Campsites	
	Bond Funds	20,000
Nelson County		
fn.	Nelson County Waterlines	
	Bond Funds	400,000
fo.	Water and Sewer Line Extensions to Owen County High School	
	Bond Funds	275,000
Perry County		
fp.	Buckhorn's Children Foundation - Displace Workers Training Center	
	General Fund	50,000
fq.	Southeast Kentucky - Connie Mack program	
	Bond Funds	20,000
fr.	Perry County Board for Appalachian Regional Theatre Society	
	Bond Funds	15,000
fs.	City of Vicco Water Projects	
	Bond Funds	150,000
ft.	Viper Volunteer Fire Department Water Projects	
	Bond Funds	100,000
fu.	Perry County Board Extracurricular Activities	
	Bond Funds	150,000
fv.	Hazard City Schools Extracurricular Activities	
	Bond Funds	50,000
fw.	Perry Central High School - Resource Parking Lot	
	Bond Funds	50,000
fx.	Challenger Learning Center of Kentucky Board	
	Bond Funds	200,000
fy.	Hazard City Schools - Renovation of Roy G. Eversole Gym	
	Bond Funds	50,000
Pike County		
fz.	Hardy Park - Renovation and Maintenance	
	General Fund	60,000
ga.	Straight Hollow Water	
	Bond Funds	110,000
gb.	Stone Cold Water	
	Bond Funds	86,000
gc.	South Williamson Sewer Project	
	Bond Funds	200,000

gd.	Eastern Kentucky Exposition Center		
	Bond Funds	6,900,000	
Rockcastle County			
ge.	Rockcastle County Technology Center		
	Bond Funds	25,000	
Rowan County			
gf.	West Liberty Technology School		
	General Fund	440,000	440,000
gg.	Morehead City Water Expansion		
	Bond Funds	525,000	
Simpson County			
gh.	Franklin/Simpson Technical Center		
	Bond Funds	1,000,000	
Statewide			
gi.	Rails to Trails Program		
	General Fund	247,000	175,500
gj.	Telemedicine (HB 177)		
	General Fund	500,000	600,000
gk.	Commission on Small Business Advocacy (HB 588)		
	General Fund	125,000	175,000
gl.	County Livestock Fund (HB 947)		
	General Fund	45,000	45,000
gm.	Aquaculture Infrastructure Components		
	Bond Funds	2,000,000	2,000,000
gn.	Various State Parks-Technology Upgrades		
	Bond Funds	588,000	
Todd County			
go.	Logan Todd Regional Water Project		
	Bond Funds	500,000	
Union County			
gp.	Union County Agricultural Fair - Arnold Arena and Convention Center Completion		
	Bond Funds	900,000	
Warren County			
gq.	National Corvette Museum - Roof for Outdoor Stage		
	Bond Funds	50,000	
gr.	L&N Depot Restoration and Bowling Green Public Library Joint Effort		
	Bond Funds	400,000	
gs.	Warren County - Additional Community Projects		
	Bond Funds	250,000	
gt.	Boyce Community Center		
	Bond Funds	10,000	
Washington County			
gu.	St. Catharine College Water Lines		
	Bond Funds	300,000	
Whitley County			
gv.	Corbin Tech Center - Design		

	Bond Funds		100,000
gw.	Whitley County Water		
	Bond Funds		1,000,000
gx.	Whitley County 911 Tower Replacement		
	Bond Funds		10,000
Woodford County			
gy.	Bluegrass Railroad Museum-Bridgework, Rail Work, Signs, Miscellaneous		
	Bond Funds		250,000
gz.	Versailles Water Project		
	Bond Funds		1,000,000
ga.	Woodford County Hospital District Board		
	General Fund	500,000	
6.	POSTSECONDARY EDUCATION		
Budget Unit	Kentucky Community and Technical College System (KCTCS)		2000-01
Clinton County			
a.	KCTCS Technical College		
	Bond Funds		2,000,000
Daviess County			
b.	Advanced Technology Center Study		
	Bond Funds		500,000
Floyd County			
c.	East Kentucky Center for Science, Math, and Technology		
	Bond Funds		1,000,000
Harlan County			
d.	Appalachian Development Center (Southeast Community College)		
	Bond Funds		500,000
Harrison County			
e.	KCTCS Education Building		
	Bond Funds		200,000
Hopkins County			
f.	Madisonville Community College Renovation		
	Bond Funds		850,000
Knott County			
g.	Knott County KCTCS Parking		
	Bond Funds		1,000,000
h.	Pedestrian Walkway		
	Bond Funds		100,000
Muhlenberg County			
i.	Muhlenberg Community College Satellite Site		
	Bond Funds		700,000
Perry County			
j.	Center for Rural Health		
	Bond Funds		4,000,000
7.	TOURISM DEVELOPMENT CABINET		
Budget Unit	Kentucky Horse Park		2000-01

Fayette County				
	a.	Horse Park Infrastructure Development		
		Bond Funds		1,550,000
	b.	Horse Park Water Line Extension		
		Bond Funds		1,389,000
Budget Unit	Parks		2000-01	
Barren County				
	c.	Barren State Park Boat Dock		
		Bond Funds		300,000
Bell County				
	d.	Pine Mountain State Park Golf Course		
		Bond Funds		2,000,000
Boone County				
	e.	Big Bone Lick State Park		
		Bond Funds		500,000
Boyle County				
	f.	Perryville Battlefield State Park		
		Bond Funds		475,000
Cumberland County				
	g.	Dale Hollow State Park-Facility		
		Bond Funds		2,150,000
Daviess County				
	h.	Ben Hawes State Park Project		
		Bond Funds		1,054,800
Hickman County				
	i.	Columbus/Belmont State Park Enhancement		
		Bond Funds		450,000
Larue County				
	j.	Lincoln Boyhood Home		
		Bond Funds		155,000
Laurel County				
	k.	Levi Jackson State Park		
		Bond Funds		250,000
Lewis County				
	l.	Lewis County State Park Study		
		General Fund		50,000
Marshall County				
	m.	Kentucky Dam Village State Park Marina Repair		
		Bond Funds		1,750,000
Monroe County				
	n.	Old Mulkey State Park		
		Bond Funds		250,000
Nelson County				
	o.	Old Bardstown Village		
		Bond Funds		100,000
Spencer County				
	p.	Taylorsville State Park Enhancement		
		Bond Funds		250,000

Budget Unit	Kentucky Fair and Exposition Center	2000-01	
Jefferson County			
q.	Kentucky State Fair and Exposition Center		
	Bond Funds	4,000,000	
Budget Unit	Office of the Secretary	2000-01	
Daviess County			
r.	Area Museum		
	Bond Funds	1,270,000	
s.	Museum of Fine Art		
	Bond Funds	600,000	
Jefferson County			
t.	African-American Heritage Museum		
	Bond Funds	3,000,000	
u.	Muhammad Ali Center		
	Bond Funds	10,000,000	
Madison County			
v.	Berea Artisans Center		
	Bond Funds	1,400,000	
Rockcastle County			
w.	Country Music Museum		
	Bond Funds	1,000,000	
8.	WORKFORCE DEVELOPMENT CABINET		
Budget Unit	Technical Education	2000-01	
a.	Area Technical Center Equipment		
	Bond Funds	2,998,800	
9.	JUDICIAL BRACH		
Budget Unit	Court of Justice		
Local Facility Fund			
a.	Casey County Courthouse-Use Allowance		
	General Fund	547,000	547,000
b.	Barren County Courthouse		
	Bond Funds	500,000	
c.	Bath County Courthouse Renovation		
	Bond Funds	100,000	
d.	Bracken County Courthouse Elevator		
	Bond Funds	230,000	
e.	McLean Courthouse Renovation		
	Bond Funds	300,000	
f.	Trigg County Courthouse Annex		
	Bond Funds	250,000	
g.	Webster County Courthouse Renovation		
	Bond Funds	250,000	

S. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund.

These amounts are comprised of estimated receipts for fiscal year 2000-2001 and fiscal year 2001-2002 in combination with prior unobligated balances in the respective single county funds. Total expenditures from this source in fiscal year 2000-2001 and fiscal year 2001-2002 shall not exceed the amounts listed for any project or any county enumerated below.

1. GOVERNMENT OPERATIONS

Budget Unit	Local Government	2000-01	2001-02
Bell County			
a.	Bell County Fiscal Court (County Projects)		
	Restricted Funds	650,000	
b.	City of Middlesboro Community Projects		
	Restricted Funds	450,000	
c.	Bell County Pilot Project (Senior Citizens and Disabled Miners Prescription Drug Program)		
	Restricted Funds	750,000	
d.	Bell County Industrial Foundation Industrial Park Developments		
	Restricted Funds	1,000,000	
e.	City of Pineville (City Projects)		
	Restricted Funds	250,000	
Boyd County			
f.	Boyd County Water/Sewer Projects		
	Restricted Funds	150,000	185,000
Breathitt County			
g.	Appalachian Regional Hospital Project – Corporate Expansion		
	Restricted Funds	700,000	
h.	City of Jackson – Intergenerational Center		
	Restricted Funds	125,000	125,000
i.	City of Jackson – City Hall Project		
	Restricted Funds	100,000	100,000
j.	Regional Performing Arts/Instructional Center		
	Restricted Funds	100,000	100,000
k.	City of Jackson Water Treatment Plant		
	Restricted Funds	200,000	100,000
l.	County Court Clerk Computer Upgrade		
	Restricted Funds	40,000	
m.	Mt. Carmel River Launching Facility		
	Restricted Funds	50,000	
n.	Middle Kentucky River Student Headstart Bus		
	Restricted Funds	40,000	
o.	Breathitt County High School Recreation Field		
	Restricted Funds	50,000	
p.	Jackson Independent School Recreation Field		
	Restricted Funds	50,000	
Butler County			
q.	Fire Department Radios		
	Restricted Funds	110,000	
r.	Butler County Water Project		
	Restricted Funds	100,000	

Caldwell County			
s.	Debt Repayment/Existing Spec Building		
	Restricted Funds	139,500	
Carter County			
t.	Hanna Lane Water Project		
	Restricted Funds	230,000	
u.	Carter County Jail		
	Restricted Funds	213,000	
v.	Olive Hill Historical Society Museum		
	Restricted Funds	62,000	88,000
w.	Connector Road from US 60 in Olive Hill to Fire Station		
	Restricted Funds	100,000	
Christian County			
x.	Christian County Water Project		
	Restricted Funds	150,000	
Clay County			
y.	Shammrock Property		
	Restricted Funds	450,000	
z.	Clay County Civic Center		
	Restricted Funds	100,000	
aa.	Little Goose Industrial Property		
	Restricted Funds	75,000	
Daviess County			
ab.	Daviess County Park and Visitor Center		
	Restricted Funds	250,000	
Edmonson County			
ac.	Edmonson County Parks Board Improvement Project		
	Restricted Funds	13,300	
Elliott County			
ad.	Elliott County Economic Development Projects		
	Restricted Funds		150,000
ae.	Elliott County Parks and Recreation		
	Restricted Funds	90,000	
af.	County Garage Building Project		
	Restricted Funds	68,000	
Floyd County			
ag.	Floyd County Water Projects		
	Restricted Funds	450,000	500,000
ah.	Industrial Site Expansions		
	Restricted Funds	200,000	
ai.	Parks and Recreation Improvements		
	Restricted Funds	150,000	
aj.	Floyd County Courthouse Renovations		
	Restricted Funds	100,000	
ak.	Betsy Lane High School Football Field Renovations		
	Restricted Funds	100,000	
al.	Allen Central High School Football		

	Field Renovations		
	Restricted Funds	100,000	
am.	Wayland Community Center Equipment		
	Restricted Funds	25,000	
an.	David School Equipment		
	Restricted Funds	25,000	
ao.	McDowell Flood Control Project		
	Restricted Funds	200,000	
ap.	Sugar Loaf Flood Control Project		
	Restricted Funds	40,000	
aq.	Martin Flood Control Project		
	Restricted Funds	60,000	
ar.	John M. Stumbo Community Park		
	Restricted Funds	25,000	
as.	Garth Landfill		
	Restricted Funds	50,000	
Greenup County			
at.	Pond Run Road Improvements		
	Restricted Funds	148,800	85,200
Harlan County			
au.	City of Harlan Regional Sewer		
	Restricted Funds	300,000	400,000
av.	City of Wallins Water System		
	Restricted Funds	50,000	
aw.	Cawood Water District Expansion		
	Restricted Funds	50,000	
ax.	Harlan County Fiscal Court		
	Restricted Funds	710,000	200,000
ay.	Southeast Community College Foundation – Operating for Tourism Projects		
	Restricted Funds	300,000	370,000
az.	Sunshine School – Operating for Child Care Programs		
	Restricted Funds	50,000	50,000
ba.	Tri-City Little League – Park Improvements		
	Restricted Funds	5,000	10,000
bb.	City of Wallins – Recreational Improvements		
	Restricted Funds	10,000	15,000
bc.	Center for Appalachian Development - Study		
	Restricted Funds	50,000	
bd.	Sunshine Volunteer Fire Department Equipment		
	Restricted Funds	5,000	5,000
be.	New Covenant Kitchen		
	Restricted Funds	15,000	5,000
bf.	East Kentucky Social Club – Roof		
	Restricted Funds	15,000	10,000
bg.	Benham Coal Miners Monument		
	Restricted Funds	10,000	40,000
bh.	Harlan Downtown Revitalization		

	Restricted Funds	25,000	25,000
bi.	City of Cumberland – Sewer Plant Equipment		
	Restricted Funds	5,000	10,000
bj.	Yoakum Creek Volunteer Fire Department – Renovations/Equipment		
	Restricted Funds	15,000	10,000
bk.	Pine Mountain Development Corporation – Loan Fund		
	Restricted Funds	15,000	10,000
bl.	Harlan County Industrial Development Act (IDA)		
	Restricted Funds	50,000	50,000
bm.	Cloverfork Multi-Purpose Center – Renovation		
	Restricted Funds	10,000	15,000
bn.	City of Evarts – Various Community Developments		
	Restricted Funds	10,000	15,000
bo.	City of Loyall – City Operations and Maintenance		
	Restricted Funds	10,000	15,000
bp.	Martin's Fork Volunteer Fire Department Equipment		
	Restricted Funds	5,000	5,000
bq.	Cloverfork Museum Facility – Renovation		
	Restricted Funds	5,000	5,000
br.	Harlan County Rescue Squad – Equipment		
	Restricted Funds	10,000	10,000
bs.	City of Cumberland		
	Restricted Funds	25,000	25,000
bt.	Cumberland Valley Area Development District - Cloverlick Water Study		
	Restricted Funds	15,000	10,000
bu.	Green Hill Community Park		
	Restricted Funds	20,000	20,000
bv.	City of Lynch – Various Community Developments		
	Restricted Funds	15,000	10,000
bw.	Tri-City Rescue Squad – Equipment		
	Restricted Funds	10,000	10,000
bx.	Beldsoe Volunteer Fire Department – Equipment		
	Restricted Funds	5,000	10,000
by.	Tri-City Tourist Conference Building		
	Restricted Funds	30,000	30,000
bz.	Coldiron Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
ca.	City of Benham - Various Community Development Projects	15,000	10,000
cb.	City of Cumberland - Fire Department		
	Restricted Funds	5,000	10,000
cc.	Harlan County Fiscal Court - Purchase of Road Equipment		
	Restricted Funds	70,000	60,000
cd.	D.A.R.E - Purchase of New Vehicle for		

	Harlan County School		
	Restricted Funds	20,000	10,000
ce.	Hands Across Mountain - Various Projects		
	Restricted Funds	3,000	2,000
cf.	Harlan County Senior Citizens		
	Restricted Funds	5,000	5,000
cg.	Wallins Volunteer Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
ch.	Evarts Fish and Game Club - Development Projects5,000	5,000	
ci.	Cloverfork Rescue Squad - Purchase of Equipment5,000	10,000	
cj.	Lower Cloverfork Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
ck.	Evarts Fire Department - Purchase of Equipment 5,000	10,000	
cl.	Upper Cloverfork Fire Department - Purchase of Equipment - Homes Mill		
	Restricted Funds	5,000	10,000
cm.	Harlan County Sheriff Department - Purchase of Vehicle		
	Restricted Funds	15,000	10,000
cn.	Harlan County Fiscal Court - Purchase of Equipment		
	Restricted Funds	50,000	
co.	Benham of Volunteer Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
cp.	Pathfork Community Park - Development of a local park		
	Restricted Funds	15,000	15,000
cq.	Totz Community Park - Development of a park 15,000	15,000	
cr.	Putney Volunteer Fire Department - Purchase of Equipment		
	Restricted Funds	5,000	10,000
cs.	Harlan Shrine Club for Putney Park		
	Restricted Funds	5,000	10,000
ct.	Harlan County Jail - Repairs		
	Restricted Funds	100,000	
cu.	Harlan County Clerk - Office Equipment		
	Restricted Funds	10,000	15,000
cv.	Loyall Fire Department - for Building		
	Restricted Funds	15,000	10,000
Henderson County			
cw.	Henderson County Road Bore Water Project		
	Restricted Funds	225,000	
cx.	Melton Road Waterlines		
	Restricted Funds	16,500	
cy.	Birk City Road Water Project		

	Restricted Funds	21,000	
cz.	Middle Delaware Road Water Project		
	Restricted Funds	22,700	
da.	Water and Sewer Lines – Henderson Fairground		
	Restricted Funds	44,800	
db.	Water and Sewer Department Merger Study		
	Restricted Funds	20,000	
Hopkins County			
dc.	Madisonville Post Office – Acquisition/Renovation		
	Restricted Funds	800,000	
Johnson County			
dd.	Mountain Home Place Project – Redirect to City of Paintsville Reauthorization/Reallocation ($300,000 – Restricted Funds)		
de.	Paintsville City Hall Project – Renovation		
	Restricted Funds	150,000	
df.	Paintsville Tourism Welcome Center – Development		
	Restricted Funds	150,000	
dg.	Highway Lighting (US 460 and 321)		
	Restricted Funds	30,000	
dh.	Johnson County Senior Citizens Center – Renovation/Equipment		
	Restricted Funds	50,000	
di.	Johnson County Public Library Renovation		
	Restricted Funds	100,000	
dj.	Johnson County Industrial Development Project		
	Restricted Funds	500,000	
dk.	Paintsville High School Recreation Field Improvements		
	Restricted Funds	50,000	
dl.	Paintsville Golf Course Project - Development		
	Restricted Funds	75,000	
Knott County			
dm.	Appalachian Regional Hospital Project – Corporate Expansion		
	Restricted Funds	650,000	
dn.	Mallie Water Project		
	Restricted Funds	150,000	150,000
do.	Bill Hall Mountain Water Project		
	Restricted Funds	200,000	200,000
dp.	Owens Branch Water Project		
	Restricted Funds	75,000	75,000
dq.	Short Branch Water Project		
	Restricted Funds		50,000
dr.	Knott County Youth Center – Development		
	Restricted Funds		250,000
ds.	Right Beaver/Caney Creek/Carr		

		Creek Recreation Project		
		Restricted Funds		200,000
	dt.	Emma Lena/Carrie/Clear Creek Recreation Facility		
		Restricted Funds		50,000
	du.	Lotts Creek Community Center Lighting		
		Restricted Funds		100,000
	dv.	Knott County Central Community Recreation Complex		
		Restricted Funds		100,000
	dw.	Jones Fork Park		
		Restricted Funds	15,000	
	dx.	Ball Creek Park		
		Restricted Funds	15,000	
	dy.	Right Beaver-Kite Park		
		Restricted Funds	15,000	
	dz.	Hindman Park		
		Restricted Funds	15,000	
	ea.	Red Fox Community Park		
		Restricted Funds	15,000	
	eb.	Dry Creek Park		
		Restricted Funds	15,000	
Knox County				
	ec.	Knox County Fiscal Court Water Projects		
		Restricted Funds	858,000	198,000
Laurel County				
	ed.	Laurel County Fiscal Court Waterline Projects		
		Restricted Funds	260,000	
Lawrence County				
	ee.	Lawrence County Fiscal Court Water/Sewer Projects		
		Restricted Funds	300,000	
	ef.	Lawrence County Parks and Recreation – Various		
		Restricted Funds	350,000	
	eg.	Lawrence County Economic Development Projects – Various		
		Restricted Funds	365,300	184,700
Lee County				
	eh.	County Multi-Purpose Center Project		
		Restricted Funds	300,000	
Leslie County				
	ei.	Appalachian Regional Hospital Project – Corporate Expansion		
		Restricted Funds	1,600,000	
	ej.	Leslie County Fiscal Court Water Projects – Various		
		Restricted Funds	1,050,000	
	ek.	Road Construction and Equipment		
		Restricted Funds	50,000	

el.	Leslie County Education Center – Construction		
	Restricted Funds	400,000	
em.	Cutshin Senior Citizens Center – Construction		
	Restricted Funds	400,000	
en.	Nixon EOC 911 Project		
	Restricted Funds	750,000	
eo.	Leslie County Volunteer Fire Departments – Equipment/ Vehicles		
	Restricted Funds	60,000	
ep.	W.B. Muncy Gym Renovation		
	Restricted Funds	250,000	
eq.	Leslie County Fiscal Court for Park at CREK Center		
	Restricted Funds	500,000	50,000
Letcher County			
er.	Appalachain Regional Hospital Project – Corporate Expansion		
	Restricted Funds	650,000	
es.	Childs Branch Industrial Park – Development		
	Restricted Funds	471,000	
et.	Jenkins Fire Department – Equipment		
	Restricted Funds	50,000	
eu.	Blackey/Isom Water Project – Improvements		
	Restricted Funds	1,000,000	
ev.	City of Neon Downtown Beautification		
	Restricted Funds	50,000	
ew.	Colson Multi-Purpose Center – Construction		
	Restricted Funds	50,000	
ex.	Gordon Multi-Purpose Center – Acquisition/ Construction		
	Restricted Funds	100,000	
ey.	Southeast Community College (SECC) Walk Bridge		
	Restricted Funds	100,000	
ez.	Industrial/Infrastructure Development – Various		
	Restricted Funds	1,000,000	1,000,000
McCreary County			
fa.	McCreary County Federal Prison Project – Infrastructure		
	Restricted Funds	450,000	
McLean County			
fb.	Purchase Acreage for Industrial Park #2 - City of Island		
	Restricted Funds	125,000	
fc.	Debt Service and Installation of Natural Gas Pipeline to Perdue Farms, Industrial Park #1 and #2		
	Restricted Funds	220,000	
fd.	Sewer Line Extension – Calhoun and Rumsey		
	Restricted Funds		60,000

fe.	Water Plant Renovation – Livermore		
	Restricted Funds	50,000	
ff.	Waterline Extensions Industrial Park #2- City of Island		
	Restricted Funds	70,000	
fg.	One Stop/Adult Education/Workforce Investment Act (WIA) Training Center		
	Restricted Funds	60,000	
fh.	Fire Trucks – Acquisition		
	Restricted Funds	55,000	45,000
Magoffin County			
fi.	Salyersville Wastewater Project – Improvements		
	Restricted Funds	200,000	
Martin County			
fj.	Martin County Community Center – Development		
	Restricted Funds	2,000,000	2,000,000
fk.	Health Clinic Reauthorization ($1,000,000 – Restricted Funds)		
fl.	Sheldon Clark Athletic Field – Development/Expansion		
	Restricted Funds	100,000	
fm.	Martin County Rescue Squad – Renovation/Equipment		
	Restricted Funds	60,000	
fn.	Pigeon Roost Community Center – Development		
	Restricted Funds	30,000	
fo.	City of Warfield Community Projects – Various		
	Restricted Funds	100,000	
fp.	City of Inez Walking Trail – Development		
	Restricted Funds	100,000	
fq.	Martin County Senior Citzens Center – Renovation/ Equipment		
	Restricted Funds	100,000	
fr.	Warfield County Park Project – Development		
	Restricted Funds	30,000	
fs.	Grassy/Tomahawk Walking Trails Project – Development		
	Restricted Funds	75,000	
Morgan County			
ft.	Morgan County Parks		
	Restricted Funds	40,000	
Muhlenberg County			
fu.	Community College Satellite at Central City Road Construction		
	Restricted Funds	100,000	
fv.	Mulhenberg County Courthouse Dome Repair		
	Restricted Funds	200,000	
fw.	Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham		
	Restricted Funds	500,000	

fx.	Courthouse Elevators		
	Restricted Funds	100,000	
fy.	Senior Citizens and Retraining Center Facilities Driveway		
	Restricted Funds	50,000	
fz.	Senior Citizens and Retraining Center Facilities Sewage Collector Lines		
	Restricted Funds	50,000	
ga.	Mulhenberg County Airport Runway for Accommodation of Jets	100,000	
Ohio County			
gb.	Fordsville Water and Sewer – Upgrade		
	Restricted Funds	300,000	
gc.	Centertown Water and Sewer/Ohio County Water Projects		
	Restricted Funds	800,000	
gd.	County Water District Projects – Upgrade		
	Restricted Funds		280,000
Perry County			
ge.	Appalachian Regional Hospital Project – Corporate Expansion		
	Restricted Funds	1,350,000	
gf.	Typo, Krypton, Yerkes, and Williard Water Projects – Expansion		
	Restricted Funds	400,000	
gg.	Feds Fork Water Project		
	Restricted Funds	150,000	
gh.	Lower Second Creek Water Project		
	Restricted Funds	75,000	
gi.	Perry County Ambulance		
	Restricted Funds	25,000	
gj.	Perry County Schools Technology Money		
	Restricted Funds	50,000	
gk.	City of Buckhorn Community Improvements – Various		
	Restricted Funds	50,000	75,000
gl.	Thirteen Volunteer Fire Departments – To Split		
	Restricted Funds	260,000	
gm.	Arts Culture Community Center – Expansion/Renovation		
	Restricted Funds	50,000	
gn.	Hazard/Perry County Community Ministries –		
	Restricted Funds	10,000	
go.	Viper Volunteer Fire Department – Water Project		
	Restricted Funds	100,000	
gp.	Hazard/Perry County Senior Citizens		
	Restricted Funds	50,000	
gq.	Hazard City Schools		
	Restricted Funds	50,000	50,000
gr.	City of Vicco Community Improvements		

	Restricted Funds	75,000	
gs.	City of Hazard		
	Restricted Funds	449,000	
gt.	Perry County School Systems		
	Restricted Funds	350,000	
gu.	Southeast Kentucky Connie Mack		
	Restricted Funds	15,000	
gv.	Perry County Board of Education - Hazard/ Perry Youth Soccer		
	Restricted Funds	10,000	
gw.	City of Vicco ACUP Water Project		
	Restricted Funds		107,000
gx.	Hazard Christian Academy		
	Restricted Funds	5,000	
gy.	Wabaco Christian Academy		
	Restricted Funds	5,000	
gz.	Perry County Board of Education - Perry County Youth Football		
	Restricted Funds	15,000	
ha.	Perry County Sheriff's Department		
	Restricted Funds	50,000	
hb.	Disabled American Veterans' Chapter 64		
	Restricted Funds	25,000	
hc.	County Clerk Office - Updating of Computer System		
	Restricted Funds	18,000	
hd.	Perry County Board of Education - Appalachian Regional Theater Society		
	Restricted Funds	16,000	
he.	City of Vicco - Georges Branch Water Project		
	Restricted Funds	50,000	
hf.	City of Hazard - Planning on Golf Course		
	Restricted Funds	50,000	
hg.	Hazard City Schools Technology Money		
	Restricted Funds	50,000	
Pike County			
hh.	Mountain Water District Projects – Various		
	Restricted Funds	900,000	900,000
hi.	Dorton Little League Field – Development		
	Restricted Funds	100,000	
hj.	Earl Sullivan Community Park – Development		
	Restricted Funds	100,000	
Pulaski County			
hk.	Southeastern Water Project – Expansion		
	Restricted Funds	104,700	
Rockcastle County			
hl.	Match for Appalachian Community Initiative Grant (Community Development Initiative)		

	Restricted Funds	245,000	
Union County			
hm.	New Building and Equipment for Technology Center at High School		
	Restricted Funds	500,000	
hn.	Old Officers Club on Camp Breckinridge – Renovation		
	Restricted Funds	300,000	
Webster County			
ho.	Webster County Water/Sewer – City of Sebree (Industrial Park)		
	Restricted Funds	500,000	
hp.	Webster County Courthouse Renovations		
	Restricted Funds	1,000,000	
Whitley County			
hq.	Whitley County Water Projects – Various		
	Restricted Funds	540,000	540,000
Wolfe County			
hr.	Wolfe County Industrial Property Acquisition		
	Restricted Funds	150,000	
hs.	Wolfe County Road Equipment		
	Restricted Funds	65,000	35,000
ht.	Courthouse Renovations		
	Restricted Funds	25,000	
hu.	Wolfe County Volunteer Fire Departments – Equipment		
	Restricted Funds	30,000	

2. FINANCE AND ADMINISTRATION CABINET

Budget Unit	General Administration	2000-01	2001-02
Knott County			
a.	Red Fox Project – Continued Development		
	Restricted Funds	175,000	175,000
Letcher County			
b.	Red Fox Project – Continued Development		
	Restricted Funds	250,000	
Perry County			
c.	Red Fox Project – Continued Development		
	Restricted Funds		197,300
Pike County			
d.	East Kentucky Exposition Center Project – Continued Development		
	Restricted Funds	1,734,000	1,766,000

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2000, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 2000; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 1998-2000 appropriated maintenance pools shall remain subject to the provisions of KRS 45.770(4)(c) and (d). Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2000.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium and a partial amount of the annual debt service required has been provided so that preliminary work on the projects may proceed. The full amount of annualized debt service has been included at the beginning of fiscal year 2001-2002. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2001.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding the provisions of KRS 45.750 to 45.782, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance and Replacement Fund or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance and Replacement Fund and that certain projects require a direct appropriation from the Deferred Maintenance Fund in this Act. KRS 45.782 notwithstanding, certain of the Deferred Maintenance projects identified in Part II of this Act exceed $400,000 each.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance and Replacement Fund falls below $5,000,000 in fiscal year 2000-2001, any debt service lapse necessary to bring the fund balance to $5,000,000 shall be credited to the Emergency Repair, Maintenance and Replacement Fund. If the Emergency Repair, Maintenance and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2000-2001 in debt service lapse shall be deposited to the statutory Deferred Maintenance Pool Account. No transfer to the Emergency Repair, Maintenance and Replacement Fund or the Deferred Maintenance Pool shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool." For the Agency Bond Pool, $35,000,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2000-2002 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of higher education involving no state or federal funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

9. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects, Infrastructure projects, Employment Services Facilities projects authorized in Part IX of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, and initiatives authorized in Part III of this Act, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

10. The Council on Postsecondary Education subheading in this Part includes a project entitled "Capital Renewal and Maintenance Pool." For the Capital Renewal and Maintenance Pool, $60,000,000 in projects are authorized to be funded from $30,000,000 in General Fund supported bonds and matched with $30,000,000 in Restricted Funds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and

Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2000-2002 biennium. Council recommendations may include groupings of projects such as "Life Safety Projects in E&G Buildings." However, if such groupings do not constitute a single construction project, any individual subproject exceeding $400,000 must be separately identified.

The Council on Postsecondary Education subheading in this Part includes a project entitled "Equipment Replacement Pool." For the Equipment Replacement Pool $20,000,000 in projects are authorized to be funded from General Fund supported bonds. Allocations from the pool will be determined by the Council, based on the proportional institutional expenditures for instruction and research. Institutions will be required to match research, but not instructional, equipment on a dollar-for-dollar basis. Council recommendations for funding from the pool will be made to the Secretary of the Finance and Administration Cabinet.

11. The General Fund amount of $75,000 authorized in 1998 Kentucky Acts, Chapter 615, Part II (House Bill 321) for the Estill County Board of Education Swimming Pool renovation is reauthorized in fiscal year 2000-2001 and shall be redirected to finance other initiatives.

12. Language provisions relating to Section R, Community Development Projects:

a. Item 1, Project dw, Cardinal Park. The portion of the park related to this appropriation shall be named: This Park was built in honor of Don Fightmaster and individuals with disabilities.

b. Item 7, Project q, Kentucky State Fair and Exposition Center. Funds are provided to complete all planning and construction documents for the proposed expansion of the South Wing. In addition, funds may be used to replace the Astro-Turf in Cardinal Stadium.

c. Item 5, Project ar, Fleming County Water Resources and Land Acquisition. Funds are provided to the Department of Parks for Elk Creek Lake. The Department shall grant reasonable water withdrawals for the Western Fleming Water District.

13. Language provisions relating to Section S, Coal Severance Projects:

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Industries for the Blind, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2000-2001 or fiscal year 2001-2002, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Office of State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

3. Except as otherwise provided in KRS 48.630(9) and (10) and in this Act, a budget unit may requisition for expenditure from its Restricted Funds accounts or Federal Funds accounts, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 2001, and during the fiscal year ending June 30, 2002, all receipts placed to the credit of its funds accounts in each respective year, in addition to any balance which the budget unit may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative

Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the FB 2000-2002 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) on or before the beginning of each fiscal year; (2) on or before October 1; (3) on or before January 1; and (4) on or before April 1.

4. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

6. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

7. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

8. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

9. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 3 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

10. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

11. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this Section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

12. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made herebefore or hereafter for the fiscal year ending June 30, 2000, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

13. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

14. The State Budget Director shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 2000 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget, and Legislative Budget as enacted by the 2000 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2000-2002 biennium, and based upon supporting documentation and legislative records as considered by the 2000 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint

Committee on Appropriations and Revenue.

15. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

16. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

17. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

18. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2000 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 1998 Regular Session to sine die adjournment of the 2000 Regular Session is not confirmed by the 2000 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 1999-2000 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2000 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

19. Notwithstanding KRS 48.705(2), there shall be no General Fund surplus revenue receipts or unexpended balances of appropriations deposited in the Budget Reserve Trust Fund Account for fiscal year 2000-2001 or fiscal year 2001-2002 except as otherwise provided in this Act. Existing funds in the account in an amount specified in this Act may be used as provided otherwise in this Act or as designated in Part VI, General Fund Budget Reduction Plan, if General Fund receipts during fiscal year 2000-2001 or fiscal year 2001-2002 are not sufficient to meet the level of General Fund appropriations included in biennial budget bills or any enactment by the 2000 General Assembly which contains an appropriation provision.

20. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System from July 1, 2000, through June 30, 2002, shall be no more than 5.89 percent for nonhazardous duty employees and 18.84 percent for hazardous duty employees; for the same period, the employer contribution for employees of the State Police Retirement System shall be no more than 21.58 percent.

21. By August 15, 2001, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

22. By October 15, 2001, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

23. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2000 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

24. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

25. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

26. It is the intent of the General Assembly that the Executive Branch implement actions necessary to achieve cost savings as intended, authorized, and directed by 1998 Kentucky Acts, and 1998 House Bill 321 (1998 Ky. Acts ch. 615, Part X), by authorizing the Executive Branch, within the limitations provided for in this Act, to transfer General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit solely within the Cabinets for Families and Children, Finance and Administration, Health Services, Justice, Natural Resources and Environmental Protection, and Workforce Development, and the Department of Education. Any transfer of General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit shall be made only within each specified Cabinet and the Department of Education and shall be limited to the General Fund cost savings amounts identified in the 2000-2002 agency

budget request and executive records. The Secretary of any of the specified cabinets and the Commissioner of the Department of Education may submit requests to the State Budget Director of the Governor's Office for Policy and Management for the transfer of General Fund appropriation authority. Such requests shall specify the need for the transfer of General Fund appropriation authority and the manner in which such a transfer would better achieve the General Fund cost savings. Any transfers made under this provision for any of the cabinets identified above or the Department of Education shall result in no change to the total value of the General Fund cost savings amounts as identified in the agency budget request records recommendation and executive records for the individual cabinets specified above or the Department of Education. Any transfer made under this provision shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

27. For fiscal year 2000-2001 and fiscal year 2001-2002, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

28. Notwithstanding the provisions in Parts I, II, IX, or X of this Act, the amount from the undesignated fiscal year 2000-2001 General Fund balance (General Fund Surplus Account, KRS 48.700) that is carried forward to fiscal year 2001-2002 for budgeted purposes shall be specified in the statutory budget memorandum. This amount may be adjusted in accordance with KRS 48.120(3).

29. Notwithstanding KRS 142.311(2), the dispensing or delivering of outpatient prescription drugs in this state shall be taxed at the rate of fifteen cents ($0.15) per prescription for which any initial payment is received after June 30, 1999, through June 30, 2000. There shall be no tax on outpatient prescriptions after June 30, 2000.

30. Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

31. (a) The Technology Trust Fund is the Technology Trust Fund established by the 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems. The provisions of this Section apply to that Technology Trust Fund and any additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X). The General Assembly has determined that the provisions of this Section shall apply to all General Fund appropriations to the Technology Trust Fund originally authorized and appropriated by the 1996 Ky. Acts ch. 380, Part X and renewed and expanded by the 1998 Kentucky Acts and House Bill 321 (1998 Ky. Acts ch. 615, Part X).

(b) Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from a discrete account established for the individual project, initiative, or system item.

(c) In addition to the General Fund appropriations for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the Emergency Repair, Maintenance and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives. Allocations from the Capital Construction and Equipment Purchase Contingency Account may be used for Technology Trust Fund projects and systems, but notwithstanding KRS 45.770 and 45.800, the total amount of allocations from the Account for Technology Trust Fund projects and systems shall not exceed $2,500,000.

32. The fund sources and appropriation amounts relating to the Transportation Cabinet contained in House Bill 502, as introduced and adjusted by the House Appropriations and Revenue Committee action, are reserved in reports and measures pertaining to the House Committee Substitute for House Bill 502, pending further action on the State/Executive Branch Budget Bill by the Committee and the House of Representatives.

33. The Kentucky Revenue Cabinet may enter into discussions with states regarding development of a multi-state, voluntary, streamlined system for sales and use tax which would have the capability to determine the taxability of a transaction and provide a method for collecting and remitting the taxes to the state. The system may provide compensation for the costs of collecting and remitting sales and use taxes. Following these discussions, the Cabinet may proceed to issue a Joint Request for Information.

The Cabinet may participate in a sales tax pilot project with other states and selected businesses to test means for simplifying sales and use tax administration and may enter into joint agreements for this purpose, subject to the following conditions.

(a) Agreements to participate in the test shall establish provisions for the administration, imposition and collection of sales and use taxes resulting in revenues paid that are the same as would be paid under KRS Chapter 139.

(b) Parties to the agreements are excused from complying with the provisions of KRS Chapter 45A to the extent a different procedure is required by the agreements.

(c) Agreements authorized under this Section, if any, shall terminate no later than December 31, 2001.

Return information submitted to any party or parties acting for and on behalf of the state shall be treated as confidential taxpayer information. Disclosure of confidential information necessary under any agreement shall be pursuant to a written agreement between the Cabinet and other party or parties. Other party or parties shall be bound by the same requirements of confidentiality as the Cabinet under KRS 131.190.

By March 1, 2001, the Cabinet shall report to the Governor and the Legislative Research Commission on the status of multi-state discussions and, if a proposed system is agreed upon by participating states, shall also recommend whether the state should participate in the system.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2000-2002 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2000-2002 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2000, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Pursuant to KRS 18A.355, an increment of five percent (5%) is provided in both fiscal year 2000-2001 and fiscal year 2001-2002 on the base salary or wages of each eligible state employee on their anniversary date.

4. Effective July 1 of each year of the 2000-2002 biennium, the base salary or wage of each state employee that is not in initial probationary status shall be no less than 105 percent of the entry level salary or wage for the grade assigned to each employee's job classification.

The individual appropriation units defined in Part I of this Act include funds to implement the above provisions of the Wage Equity Plan.

On July 1, 2000, classifications that have been determined by the Personnel Cabinet to be five pay grades too low will be raised three pay grades, classifications that are four pay grades too low will be raised two pay grades, and classifications that are three grades too low will be raised one pay grade. Employees that are paid less than 105 percent of the entry level salary or wage shall receive a pay raise to bring their salary or wage to 105 percent of the entry level salary or wage.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 1999-2000, fiscal year 2000-2001, and fiscal year 2001-2002.

		1999-2000	2000-2001	2001-2002
1.	Crime Victims Compensation Board (KRS 346.185)			2,700,000
2.	Department of Insurance (KRS 304.2-400)		461,400	898,600
3.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)		3,000,000	3,000,000
4.	Department of Financial Institutions (KRS 287.485)		900,000	900,000
5.	Charitable Gaming Regulatory Account (KRS 238.570)		700,000	740,000
6.	Underground Petroleum Storage Tank Environmental Assurance Fund		400,000	

	(KRS 224.60-130 to KRS 224.60-155)			
7.	Housing, Buildings and Construction (KRS 198B.060; 198B.615; 198B.676; 227.620; 236.130; 318.136)			300,000
8.	Mines and Minerals (KRS 351.110(2) and KRS 353.590)			200,000
9.	Secretary of State-Limited Liability Companies Program (KRS 14.140)	1,000,000	500,000	500,000
10.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5 II. 4)		2,500,000	2,500,000
11.	Fleet Management Fund (1998 Ky. Acts ch. 615, Part III, Sec. 1)		1,500,000	1,500,000
12.	Capital Construction Investment Income (KRS 42.500(12))	42,000,000	22,800,000	11,562,400
13.	Teacher's Retirement System-Return of Fiscal Year 1999 Excess Appropriation (KRS 161.550)	3,900,000		
		46,900,000	32,361,400	25,201,000

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,569,000,000 in fiscal year 1999-2000, $6,984,100,000 in fiscal year 2000-2001, and $7,332,100,000 in fiscal year 2001-2002 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) At the close of fiscal year 1999-2000, consistent with the policy direction and operating assumptions for the SEEK program General Fund appropriation as enacted in House Bill 321 (1998 Ky. Acts ch. 615), $20,600,000 from the Support Education Excellence in Kentucky (SEEK) Program shall lapse to the surplus account of the General Fund.

(3) At the close of fiscal year 1999-2000, the General Fund amounts derived from reduced debt service that shall lapse to the General Fund is not less than $25,000,000. All other excess General Fund appropriations derived from reduced debt service requirements shall lapse pursuant to the provisions in this Act.

(4) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(5) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and

Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(6) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent (25%) of the trust fund balance in fiscal year 2000-2001 and fifty percent (50%) of the trust fund balance in fiscal year 2001-2002.

(7) If the actions contained in subsections (1) through (6) of this section are insufficient to eliminate a revenue shortfall of up to five percent (5%) of the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection and subject to the limit imposed under KRS 48.130 and 48.600.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is established a Road Fund Budget Reduction Plan for fiscal year 2000-2001 and fiscal year 2001-2002. In the event of an actual or projected deficit in Road Fund revenue receipts of five percent (5%) or less than the revenue estimates of $1,123,210,300 in fiscal year 2000-2001 and $1,163,161,200 in fiscal year 2001-2002 as determined under KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service in accordance with KRS 48.130. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account in excess of $18,823,900 in fiscal year 1999-2000 and $1,616,400 in fiscal year 2000-2001 as provided in the enacted Road Fund budget. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2000-2002 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1. GOVERNOR'S OFFICE OF TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office of Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators.

b. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

2. ATTORNEY GENERAL

a. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

b. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

c. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2000-2002 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

d. Asbestos Litigation Fund: Restricted Funds which were appropriated to the Office of the Attorney General by House Bill 321 (1998 Ky. Acts ch. 615) for asbestos litigation administrative costs shall lapse and shall be transferred to the General Fund Surplus Account.

e. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full time position under KRS

Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System, soley for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

f. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in the Act.

g. Victims Witness Protection Funds: The General Fund appropriation to the Office of the Attorney General for the operation of the Victim Witness Protection Program shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2000-2001 for the same purpose.

h. Public Funds: Notwithstanding any provision of common law or statutory law to the contrary, any funds or other assets of any kind or nature, including, but not limited to, public funds as defined in KRS 446.010, court-ordered settlement agreements under KRS Chapter 367, multi-state settlements, and private funds or assets recovered in a legal action on behalf of the general public, the Commonwealth, or its duly elected statewide public officials shall be deemed public funds, and shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office of Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account, and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or a legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action either by individual social security numbers, or other individual identifying numbers, or by the individuals' proper name.

i. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children, effective July 1, 2000. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements. The Office of the Attorney General may utilize proceeds from the sale and renewal of child victims special license plates. Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victims license plates. Any revenue received from the sale or renewal of these plates in excess of costs shall be transferred to the Child Victims Trust Fund on an annual basis.

3. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-128) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2000 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or when the audit is required by statute, or when the audit is not required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report, or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendment Act of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon.

d. EMPOWER Kentucky Audit Expenses: The Auditor of Public Accounts shall charge for any consultation, training, and technology upgrade expenses incurred because of EMPOWER Kentucky and shall be paid by the client agencies.

4. AGRICULTURE

a. Agriculture - PACE Program: Up to 50% of the proceeds from the bond funds during the biennium shall be available to purchase development rights under the program established under KRS 67A.840 to 67A.850 or as established by other local governments by ordinance. The funds shall be matched dollar for dollar for dollar by local government. No urban county government or other local government shall receive more than $5,000,000 in each year. Fifty percent (50%) of the proceeds from bond funds shall be available to purchase agricultural conservation easements under the program established under KRS 262.900 to 262.920.

5. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

6. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

7. GOVERNOR'S OFFICE OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Veterans' Centers are authorized to provide a weekend and holiday premium pay incentive for the fiscal biennium 2000-2002.

ECONOMIC DEVELOPMENT

8. OFFICE OF THE SECRETARY

a. East and West Kentucky Corporations' and Regional Offices' Strategic Plan: The East and West Kentucky Corporations shall each submit an annual plan to the Interim Joint Committee on Appropriations and Revenue and to the Cabinet for Economic Development defining and outlining their respective roles and responsibilities as they relate to, but do not duplicate, the programs of the Cabinet for Economic Development. The Cabinet for Economic Development shall provide to the Interim Joint Committee for Appropriations and Revenue an annual plan for the Regional Offices defining and outlining their efforts toward maximizing return on investments and reducing duplicative efforts with other regional development groups.

b. Coal County Development Office Reports: The Office of Coal County Development shall a provide biennial progress report of the Local Government Economic Development Fund to the Legislative Research Commission for referral to the appropriate committees. The biennial report shall include but not be limited to a progress report of the Regional Industrial Park Program and a summary report of the administration and distribution of grants within the single county accounts.

c. Funding for New Commissioner: Notwithstanding subchapter 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the Kentucky Economic Development Finance Authority High-Technology Investment Fund shall be used to support the Office of Commissioner for the New Economy, which shall be attached to the Cabinet for Economic Development. The Governor shall appoint the Commissioner who shall serve at the pleasure of the Governor.

d. Knowledge Base Economy Initiatives: Funds provided for the Manufacturing Modernization project shall be used to assist small and medium-sized manufactures to become more competitive in the global marketplace. In addition, funds provided to support the Strategic Technology Capacity Initiative Study shall be used to: (1) develop a knowledge based economy strategy, (2) recruit research and development companies, (3) attract high-tech research and development centers, (4) support growth and creation of high-tech, innovative companies, and (5) build and promote networks of technology-driven and research intensive industries.

e. Kentucky Woods Product Competitiveness Corporation Reports: Notwithstanding KRS 154.47-035, beginning on or before January 15, 2001, and every year thereafter, the Kentucky Woods Product Competitiveness Corporation shall submit a written status report on its projects and activities to the Legislative Research Commission for referral to the appropriate committees. The annual report shall also include the amount of expenditure by activity within each county and the number of employees and relative salaries within the Corporation.

9. FINANCIAL INCENTIVES

a. Bluegrass State Skills Corporation: The Bluegrass State Skills Corporation shall submit quarterly progress reports for the training investment credits program to the Legislative Research Commission for referral to appropriate committees.

b. High-Tech Construction Pool: Notwithstanding subchapter 20 of KRS Chapter 154, $20,000,000 of the Kentucky Economic Development Finance Authority funds are authorized to support a High-Technology Construction Pool. This construction pool will be used for projects with a special emphasis on the creation of high-technology jobs. The Commissioner of the Office for the New Economy shall administer and authorize the distribution of funds from the pool including the authority to designate a project match requirement for a limited amount of fund support from the Construction Pool. The Commissioner shall determine the amount of Pool funds that shall be set aside for the match requirement. Any funds used for matching purposes may include public and private funds. Individual projects may be identified and authorized from this High-Technology Construction

Pool consistent with the provisions and reporting requirements set forth in Part II, Capital Projects Budget Provisions, Section 9, of this Act.

c. High-Tech Investment Pool: Notwithstanding subchapter 20 of KRS Chapter 154, or any other Kentucky statute to the contrary, $20,000,000 of the Kentucky Economic Development Finance Authority funds are authorized to be used to build and promote networks of technology-driven and research-intensive industries as well as their related suppliers with the goal of creating clusters of innovation-driven industries in Kentucky as embodied in House Bill 572 as considered by the 2000 Regular Session of the General Assembly. These funds are authorized to be used to support loans and grants, or to secure an equity position in industrial networks of this character. The Commissioner of the Office for the New Economy shall administer and authorize the distribution of funds from the pool.

d. Economic Development Reports: The Economic Development Cabinet shall submit quarterly project status summary reports by project of each Grant, Tax Credit, Loan, and Economic Development Bond Pool Fund support, or any other public funds to be used as an economic development incentive, including job training, as approved by the Kentucky Economic Development Finance Authority, the Economic Development Cabinet, or any other authority or board within the Cabinet, to the Legislative Research Commission for referral to the appropriate committees. The quarterly project status summary report shall include but not be limited to: the name of the participating company; the value and type of development assistance provided; employee projections; the costs per job; the average hourly pay; the total project cost; and the potential tax credit assigned to the project.

10. COMMUNITY DEVELOPMENT

a. Regional Offices: The Regional Offices shall submit quarterly program and status reports to the Legislative Research Commission for referral to the appropriate committees.

b. Flexible Manufacturing Network Program Reports: The Cabinet shall continue to provide quarterly program and financial status reports of the Flexible Manufacturing Network program to the Legislative Research Commission for referral to the appropriate committees.

DEPARTMENT OF EDUCATION

11. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $2,994 per student in average daily attendance in fiscal year 2000-2001 and $3,066 per student in average daily attendance in fiscal year 2001-2002 as well as to meet the other requirements of KRS 157.360, notwithstanding KRS 157.360(2)(c).

Notwithstanding any statutory provisions to the contrary, the vocational education deduct factor shall be fifteen percent in fiscal year 2000-2001 and zero percent in fiscal year 2001-2002.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

For purposes of implementing the provisions of House Bill 469 (1998 Ky. Acts ch. 254), the percent increase in the average annual Consumer Price Index for all urban consumers between the two most recent calendar years refers to calendar year 1999 compared to calendar year 1998; the resulting 2.2% increase shall be applicable in both fiscal year 2000-2001 and fiscal year 2001-2002.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Minimum Statewide Salary Schedules: The following is the minimum statewide salary schedule for fiscal year 2000-2001 and fiscal year 2001-2002.

Rank	I	II	III	IV	V
Experience					
0-3 years	25,200	22,580	19,910	17,150	15,810
4-9 years	27,840	25,200	22,580	17,150	15,810
10-14 years	31,260	28,600	25,950	17,150	15,810
15-19 years	32,260	29,610	26,950	17,150	15,810

20 years and over	32,760	30,110	27,450	17,150	15,810

c. Allocation of Support Education Excellence in Kentucky Lapse Funds: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors if funds for that adjustment factor are not sufficient. Excess funds that exist after the SEEK base and all SEEK adjustment factors have been fully funded shall be reallocated for the purpose of providing a supplemental wage program for certified personnel in local school districts. To qualify, the personnel must be employed for 175 instructional days within the same local school district. Each qualified certified personnel shall receive a supplemental payment in fiscal biennium 2000-2002 which shall not become part of the base salary or be included in retirement calculations. The Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet and the written request of the Commissioner of Education shall certify that excess funds are available.

12. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

13. MANAGEMENT SUPPORT SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2000-2001 but shall be available if needed in fiscal year 2001-2002. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the sum of $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2000-2001 and $4 per month per employee participating in the state-provided life and health insurance program in fiscal year 2001-2002 shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

c. Family Resource and Youth Services Centers: Funds appropriated to establish Family Resource and Youth Services Centers shall be transferred in fiscal year 2000-2001 and in fiscal year 2001-2002 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. The Department of Education is authorized to retain $76,900 in fiscal year 2000-2001 and $79,700 in fiscal year 2001-2002 from the funds appropriated for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If seventy percent (70%) or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Service Centers pursuant to this provision to the Legislative Research Commission.

d. Education Professional Standards Board System Infrastructure/Database System: The capital project authorized in Part II, Section C, item f of this Act shall, to the maximum degree possible, provide the Kentucky Department of Education with capacity for data warehousing for student, financial, and related data needs as well as providing teacher quality data.

14. LEARNING SUPPORT SERVICES

a. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

b. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Education Professional Standards Board (EPSB): Notwithstanding any statute to the contrary, the EPSB may collect fees for the issuance of certifications. EPSB may charge the following fees at the corresponding amounts: issuance or reissuance (renewal) of regular certificate (to include all previously issued certifications and endorsements) - $50; each transaction to add area(s) of certification or rank - $50; issuance of five-year substitute certificate - $15; issuance of duplicate certificate - $25; reissuance of limited certification - $35.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 1999-2000 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than 70% of its fiscal year 1999-2000 allocation.

EDUCATION, ARTS, AND HUMANITIES

15. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

16. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2000-2001 and fiscal year 2001-2002 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding any provisions of KRS 157.611 to 157.665 to the contrary, the School Facilities Construction Commission is authorized to make offers of assistance to eligible schools in an amount not to exceed $100,000,000 during the fiscal 2000-2002 biennium.

c. Bond Sales: Bond sales prior to June 30, 2000, are limited to the amount that can be supported on an annual basis by the amount of debt service appropriated in Part I of this Act.

d. Extending Offers of Assistance: Notwithstanding KRS 157.622(5), a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed six (6) years.

e. Additional Growth Nickel Levy: The Facilities Support Program of Kentucky is fully funded in fiscal biennium 2000-2002. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

17. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Library Facilities Fund: There is established a Public Library Facilities fund for library improvements. The Department for Libraries and Archives is authorized to enter into long-term written memoranda of agreement with local libraries to assist in construction and renovation, including providing debt service payments. Such agreements shall specify the rights, duties, and obligations of both the local public library and the Department. The Department shall promulgate administrative regulations to establish the application process, criteria for selecting projects for assistance, and the process to be followed in the construction of facilities. The Department shall report assistance awards to the Interim Joint Committee on Appropriations and Revenue within 30 days of execution of any memorandum of agreement.

FAMILIES AND CHILDREN

18. CABINET FOR FAMILIES AND CHILDREN

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

b. Funds Transfer: To the extent allowed by federal regulations and subject to the approval of the State Budget Director and the Interim Joint Committee on Appropriations and Revenue, the Cabinet for Families and Children may transfer Temporary Assistance to Needy Families (TANF) funds to the Department for Public Health in the Cabinet for Health Services in exchange for Phase I Tobacco Settlement dollars targeted for the home visitation program. Such transfer up to $3,000,000 per year is permitted on a dollar for dollar basis. This transfer, subject to the consent of both Cabinets, shall be permitted so long as allowed by federal regulations in order to enable the Cabinet for Families and Children to further leverage funds which could be used in the Alternatives for Children subprogram.

c. Legislative Oversight: To provide legislative oversight, the Cabinet for Families and Children shall apply the provisions of KRS 48.630 to the program level including the following programs: Temporary Assistance to Needy Families (TANF), Medical Assistance, State Supplementation, Welfare to Work, Child Support, Energy, Child Care, Family Based Services, Adult Services, and Alternatives for Children; and Appropriation Units: Administration Services and Disability Determinations.

19. COMMUNITY BASED SERVICES

a. Energy Assistance Trust Fund: Notwithstanding KRS 42.560, only those Restricted Funds necessary to supplement Federal Funds in order to maintain program levels as appropriated, are authorized from the Energy Assistance Trust Fund for fiscal year 2000-01 for the Home Energy Assistance and Weatherization programs.

b. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of 7% of total adult public assistance recipients placements in Postsecondary or Vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance.

c. Emergency Shelter: The General Fund appropriation for Alternatives for Children Program includes $450,000 each fiscal year for Private Child Care Emergency Shelter at the Home for the Innocents for temporary emergency services.

d. Outreach Programs: A General Fund appropriation of $225,000 each fiscal year is provided for Outreach Resource Centers Services for adults and children services expansion through the Mountain Outreach in McRoberts ($150,000 operating expenses each fiscal year) and Sarah's Place Women's Resource Center in Sandy Hook ($75,000 operating and renovation expenses each fiscal year).

e. Salary Improvements: An appropriation of $189,004,900 in fiscal year 2000-2001 is provided for Salary and Fringe Benefits costs in Community Based Services. Any appropriation for Salary and Fringe Benefits costs unexpended for Salary and Fringe Benefits costs in fiscal year 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act, to provide salary increases for employees in the Social Service Worker I and Social Service Worker II classifications.

20. ADMINISTRATION SERVICES

a. Salary Improvements: An appropriation of $24,216,300 in fiscal year 2000-2001 is provided for Salary and Fringe Benefits costs in Administration Services. Any appropriation for Salary and Fringe Benefits costs unexpended for Salary and Fringe Benefits costs in fiscal year 2000-2001 shall not lapse and shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act, to provide salary increases for employees in the Social Service Worker I and Social Service Worker II classifications in Community Based Services.

b. Workplace Improvements: The Cabinet for Families and Children may expend up to $500,000 in fiscal year 2000-2001 and $1,400,000 in fiscal year 2001-2002 for lease expansions.

HEALTH SERVICES

20. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the statutory budget memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

21. MEDICAID ADMINISTRATION

a. It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability Act (HIPA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services and special expenditures/offsets, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request. The Department for Medicaid Services, by July 1, 2000, shall promulgate administrative regulations to implement the provisions of this Section.

c. Medicaid Managed Care Administrative Costs: The Department for Medicaid Services shall collect information on Medicaid managed care organization administrative costs for each contracting entity and forward this information to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. No Medicaid managed care entity's administrative costs shall exceed 15% of the total Medicaid managed care contract cost.

d. Dental Reimbursement: The Department for Medicaid Services shall increase dental reimbursement by $11,160,000 in fiscal year 2000-2001 and $11,144,900 in fiscal year 2001-2002.

e. Medicaid Nursing Facility Allocation: The Medicaid Nursing Facility allocation for fiscal year 1999-2000 of $551,000,000 shall be increased a minimum of 3.1% in each year of the biennium to cover normal inflationary costs of operation. In addition to this inflationary base adjustment, $1,000,000 in General Fund support in fiscal year 2000-2001 and $2,000,000 in fiscal year 2001-2002 in General Fund support is provided to implement the revised Nursing Facility Prospective Payment System.

22. MEDICAID SERVICES - BENEFITS

a. Hospital Indigent Patient Reporting: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size type set as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

d. Indigent Care Posting: Any provider who receives payment from the Disproportionate Share Hospital Program shall post a sign conspicuously in the lobby, in at least a 16-point type set, stating that they participate in the Disproportionate Share Hospital Program and are consequently required to provide indigent care. Failure to comply with this provision shall result in suspension from the Disproportionate Share Hospital Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

e. Settlement of Obligations Incurred Prior to Prepaid Capitation: The Department is authorized to fulfill financial obligations incurred prior to implementation of prepaid capitation.

f. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the Federal Balanced Budget Act of 1997.

g. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

h. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12 month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

23. DEPARTMENT FOR PUBLIC HEALTH

a. Kentucky Public Health Departments shall, to the extent possible, perform the following core public health functions: enforcement of public health regulations; surveillance of public health; communicable disease control; public health education; public health policy development; reduction of risk to families and children; and disaster preparedness.

b. Local Health Department Transition Training Program Carryforward: Any General Fund appropriation unexpended in fiscal year 2000-2001 for the Local Health Department Funding Transition Training within the Department for Public Health shall not lapse, but shall be carried forward into fiscal year 2001-2002, notwithstanding KRS 45.229.

c. Funds Transfers: To the extent allowed by federal regulations and subject to the approval of the State Budget Director and the Interim Joint Committee on Appropriations and Revenue, the Cabinet for Families and Children may transfer TANF funds to the Department for Public Health in exchange for Phase I Tobacco Settlement dollars targeted for the home visitation program. A transfer up to $3,000,000 per year is permitted on a dollar for dollar basis. This transfer, subject to the consent of both Cabinets, shall be permitted so long as allowed by federal regulations in order to enable the Cabinet for Families and Children to further leverage funds which could be used in the Alternatives for Children subprogram.

d. Kentucky Regional Poison Control Center: The contract for the operation of the Kentucky Regional Poison Control Center shall equal at least $1,000,000 in each fiscal year, absent of any pass-through to any other entities.

e. Manchester Wellness Centers: General Fund support totaling $30,000 in fiscal biennium 2000-2002 for the Wellness Program in Manchester to be equally divided between the communities of Fogertown, Brightshade, and Oneida (Clay County).

f. Folic Acid, HANDS, Healthy Start, and Vaccine Coverage: General Fund (Tobacco) support totaling $11,117,300 in fiscal year 2000-2001 and $16,144,700 in fiscal year 2001-2002 and Restricted Funds support totaling $2,934,800 in fiscal year 2000-2001 and $5,536,000 in fiscal year 2001-2002 is provided for Folic Acid, HANDS, Healthy Start, and Vaccine Coverage.

25. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997 in the amount of $30,900,000 in fiscal year 2000-2001 and $29,200,000 in fiscal year 2001-2002.

b. Any Restricted Funds carryforward, up to $900,000 each fiscal year, may be used by the Department for Mental Health and Mental Retardation Services for planned replacement of computers and software in the Residential Services Program.

c. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least $233,000 in each fiscal year, absent any pass-throughs to any other entities.

d. The Healing Place Homeless Shelter: The total contract amount for the operation of the Healing Place Homeless Shelter shall be paid by the Department for Mental Health/Mental Retardation directly to the Healing Place Homeless Shelter and shall not pass through any other entity.

26. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Universal Newborn Screening: General Fund (Tobacco) support totaling $1,100,800 in fiscal year 2000-2001 and $605,300 in fiscal year 2001-2002 is provided for universal newborn screening.

27. CERTIFICATE OF NEED

Voluntary Relinquishment of a Certificate of Need or Licensure: For twenty-four (24) months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

28. AGING SERVICES

a. Notwithstanding KRS 205.460, entities contracting with the Cabinet to provide essential services under KRS 205.455 and this provision shall provide equal to or greater local match than the amount in effect during fiscal year 1999-2000. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

29. ADMINISTRATIVE SUPPORT

a. Licensing Personnel: Federal Funds support totaling $1,851,100 in fiscal year 2000-2001 and $1,851,100 in fiscal year 2001-2002 is provided for licensing personnel.

JUSTICE

30. JUSTICE ADMINISTRATION

a. Legal Aid Restrictions: These funds shall be used for providing and arranging civil legal representation for eligible low-income Kentuckians who are currently underserved and for purposes consistent with federal law and regulations. These funds shall not be used for lobbying on issues related to abortion. The recipient of this appropriation shall report annually to the Interim Joint Committee on Appropriations and Revenue on the dispositions of the grant.

b. The Urban League of Lexington-Fayette County Reporting Requirement: The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and/or federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Secretary of Justice shall supplement the General Fund appropriation with Federal funds up to a combined total of $300,000 each year if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

31. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, or any combination thereof, to provide 911 emergency telephone service.

32. CORRECTIONS MANAGEMENT

a. Reimbursement to Counties for Interstate Inmate Detainees: The Department of Corrections shall reimburse fifty percent (50%) of documented expense claims for prior year costs incurred by counties for holding interstate inmate detainees awaiting transfer in local jails and the sum of $40,000 in fiscal year 1999-2000 is included in the General Fund appropriation for this purpose.

33. ADULT INSTITUTIONS

a. Inmate Projection/Bed Status and Financial Reports: The Justice Cabinet, Department of Corrections, shall provide a quarterly report regarding inmate population projections relating to state prisoners to the Interim Joint Committee on Appropriations and Revenue. The Justice Cabinet, Department of Corrections, shall provide a monthly status of all bed space utilized to house state prisoners, including state penitentiaries, adult correctional facilities, local jails, regional jails, halfway houses, community confinement programs, and diversion programs. The Justice Cabinet, Department of Corrections, shall provide a quarterly program and financial status report which identifies the expenditure of these funds to the Interim Joint Committee on Appropriations and Revenue. The report shall provide, at a minimum, the purpose for which the expenditure was made; the projected goal to be accomplished and outcomes, and their status; and the number of participants.

b. Reporting Requirements: The Department of Corrections shall require and Private Prison Bed Contractors shall provide to the Department of Corrections an annual report that contains, at a minimum, personnel data that includes a pay scale/job classification structure for all employees; information detailing salaries of personnel and related benefits by pay scale/job classification structure; and the minimum, average, and maximum salary, plus fringe benefits provided for all employed persons. The information provided shall be consistent with the Department of Corrections pay scale and job classification structure for all Department of Corrections employees. Fringe benefits shall be identified separately from salary expense. The Department of Corrections shall annually furnish a report containing the above information plus like data for persons employed in comparable positions within Adult Correctional Facilities statewide to the Personnel Cabinet and Legislative Research Commission.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

34. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

35. DEPARTMENT FOR NATURAL RESOURCES

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the Natural Resources budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

36. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the Environmental Protection budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. Clean Air Task Force: The Clean Air Task Force membership and reporting requirements established by the 1992 General Assembly shall be continued. The Task Force shall include representatives of the industry, the environmental community, and the Cabinet, and shall report quarterly to the Legislative Research Commission for referral to appropriate committees.

c. Hazardous Waste Assessments: Notwithstanding KRS 224.46-580(7), hazardous waste assessments shall continue to be charged and collected in fiscal biennium 2000-2002.

37. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support budget unit, the Natural Resources budget unit, and the Environmental Protection budget unit for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

38. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Natural Resources and Environmental Protection Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies. The Kentucky River Authority shall continue the same rate level in fiscal biennium 2000-2002 as is currently assessed in fiscal biennium 1998-2000.

39. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

PUBLIC PROTECTION AND REGULATION

40. HOUSING, BUILDINGS AND CONSTRUCTION

a. Fire Dispatcher Training: The Commission on Fire Protection Personnel Standards and Education shall pay all expenses for fire dispatchers to attend dispatcher training at the Department of Criminal Justice Training at Eastern Kentucky University.

POSTSECONDARY EDUCATION

41. COUNCIL ON POSTSECONDARY EDUCATION

a. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the 1998 General Assembly.

b. Research Challenge Trust Fund Account: The proceeds of the endowment program authorized in Part X, Section 1 of this Act shall be deposited in the Research Challenge Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that cash or a legally enforceable contract has been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

c. Endowment Program Minimum Allocations: Consistent with the goals stated in KRS 164.003, it is the intent of the General Assembly that the Council on Postsecondary Education establish a minimum endowment for the allocations from the Endowment Program of the Research Challenge Trust Fund to the University of Louisville and the University of Kentucky. The establishment of the minimum endowment amount ensures that the allocations from the Research Challenge Trust Fund allow the Commonwealth to achieve the goals stated in KRS 164.003 in a prudent and reasonable manner as quickly as possible.

d. Research Challenge Trust Fund Program Allocations: It is the intent of the General Assembly that the Council on Postsecondary Education establish guidelines to ensure that as least 75% of the allocations from the Endowment Program of the Research Challenge Trust Fund to the University of Kentucky and the University of Louisville are allocated to the programs and disciplines of engineering, technology, health sciences, life sciences, mathematics, and physical sciences, which are more likely to be eligible for external funding from federal, private, and industry sources, provided they meet the minimum threshold endowment of $250,000. The earmarking of the Endowment Program of the Research Challenge Trust Fund for these disciplines will guarantee that moneys in the Research Challenge Trust Fund are leveraged to provide external fund sources that allow the Commonwealth to achieve the goals stated in KRS 164.003 in a reasonable and expeditious manner.

e. Endowment Program Private Match: It is the intent of the General Assembly that the Council on Postsecondary Education should establish a fair and reasonable method of dispersing the Endowment Program funding of the Research Challenge Trust Fund to the universities in such a way that requires the private match to be available in cash or by means of a legally enforceable contract to qualify for the disbursement of state funds. It is the intent of the General Assembly that the method of disbursement should not impede the ability of the universities to prudently and expeditiously raise private funds.

f. Regional University Excellence Trust Fund: The proceeds of the endowment program authorized in Part X, Section 1 of this Act shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments, including amounts pledged as deferred gifts that are vested in irrevocable trust, have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

g. Kentucky Commonwealth Virtual University: The Kentucky Commonwealth Virtual University shall not expend state funds to acquire on-line courses and degree programs which are available from a Kentucky public postsecondary institution.

h. Board of Regents Employee Exemption: Notwithstanding KRS 164.360(2), any person employed at a public postsecondary education institution at least 36 months or more before the persons relative was appointed to the board of regents of that institution shall continue to be an employee of that institution.

i. Workforce Development Trust Fund: Notwithstanding KRS 164.7925, the General Assembly directs that Lexington Community College shall be eligible for funding from the $6,000,000 General Fund appropriations each fiscal year, to postsecondary institutions in Part I, Section L, Operating Budget, in the Workforce Development Trust Fund, for initiatives to provide workforce training programs.

j. Maintenance and Operation Funds for New Postsecondary Education Facilities: The General Fund appropriations to postsecondary institutions in Part I, Section L, Operating Budget includes the amounts of $2,067,900 in fiscal year 2000-2001 and $17,030,700 in fiscal year 2001-2002 allocated for maintenance and operation of new facilities at each institution authorized by 1998 Kentucky Acts, Chapter 615, Part II (HB 321). Any corresponding unexpended amounts for this purpose shall not lapse, notwithstanding KRS 45.229, but shall be allotted to the respective institutions for program purposes.

42. MOREHEAD STATE UNIVERSITY

a. Space Allocation: Morehead State University shall provide sufficient classroom, open laboratory, teaching laboratory and other space necessary for the Kentucky Community and Technical College System and other public entities to provide course offerings to assist in meeting the academic and workforce training needs of the region within the West Liberty Extended Campus Building authorized by 1998 Kentucky Acts, Chapter 615, Part II (HB 321).

43. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

a. Kentucky Community and Technical College System Faculty and Staff Salaries: The number one budget request priority of the Kentucky Community and Technical College System is to correct the historically low salaries of the faculty and staff. The average 1998-99 salary of a community college faculty member is approximately $2,800 less than the midpoint between the average 1998-99 salary of a Kentucky K-12 teacher and the average salary of a faculty member in Kentucky's other state-supported higher education institutions. The Kentucky Community and Technical College System shall place the highest priority on improving the salaries of the Kentucky Community and Technical College System faculty and nonexecutive and nonmanagement staff.

REVENUE

44. PROPERTY VALUATION ADMINISTRATORS

a. Annual and Compensatory Leave: Notwithstanding the provisions of KRS 18A.110 to 18A.355 and KRS 61.510 to 61.705, the cabinet shall promulgate administrative regulations allowing property valuation administrators and their deputies to receive lump-sum payments for accrued annual leave and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

TOURISM DEVELOPMENT

45. OFFICE OF THE SECRETARY

a. Tourism Development Loan Program: Funds from the Tourism Development Loan Program shall be provided for direct loans for new tourism business start ups or expansion of tourism businesses. The local financial institution shall service all loans which shall be on a cash match basis. The maximum state loan amount shall be $250,000 and all loan proceeds must be for fixed costs only. The Secretary of Tourism shall establish a Tourism Development Finance Authority, subject to the approval of the Budget Review Subcommittee on Economic Development, Natural Resources and Tourism of the Interim Joint Committee on

Appropriations and Revenue, to establish all the criteria and oversee disbursement and collection of the funds.

46. DEPARTMENT OF PARKS

a. Jenny Wiley Trail Task Force: The Jenny Wiley Trail Task Force shall continue to maintain and manage the Jenny Wiley Trail. The Task Force shall provide a progress report to the Legislative Research Commission for referral to the appropriate committees by December first of each year.

b. Golf Course Construction Reports: The Department of Parks shall provide a biennial status report to the Legislative Research Commission for referral to the appropriate committees summarizing the progress of the Golf Course Development projects.

c. Entrance to E.P. Tom Sawyer State Park: The Department of Parks is prohibited from permitting the Transportation Cabinet from constructing a new entrance to E.P. Tom Sawyer State Park from either the Lakeland Road or Old Whipps Mill Road.

47. KENTUCKY HORSE PARK

a. Leasing of Horse Park Property: No group which leases portions of the Horse Park property for recreational purposes for a nominal fee may sublet any portion of the leased property to another group for recreational purposes for any more than a nominal fee.

TRANSPORTATION CABINET

48. GENERAL ADMINISTRATION AND SUPPORT

a. Transportation Cabinet Office Building Provisions: The Transportation Cabinet shall relinquish the rights to the existing State Office Building in return for the General Fund-supported previously authorized but unissued $18,900,000 bonds that are reauthorized in Part II, Section P, 1.k. of this Act. The General Assembly declares that the new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and that any surplus bond proceeds or debt service appropriations shall be deposited in the State Construction Account. Any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

49. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional federal funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited in the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) any demonstration or project specific money shall be used on the project identified; and (b) all other funds shall be used to insure that projects in the 1998-2000 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the four year preconstruction program.

d. The Transportation Cabinet is authorized to select up to five design/build demonstration projects relating to roads. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Appalachian Hospital Access Road: Included in the Road Fund appropriation of the Highways budget unit is $3,100,000 for the Appalachian Hospital Access road project in Perry County in fiscal year 2000-2001. The State Budget Director may substitute excess bond proceeds and earnings to the extent these Restricted Funds may be available. Actions under this authorization are subject to KRS 48.500 to 48.800.

f. E. P. "Tom" Sawyer State Park: The Department of Parks is prohibited from permitting the Transportation Cabinet from constructing a new entrance to E.P. "Tom" Sawyer State Park in Jefferson County, Kentucky, from either Lakeland Road or Old Whipps Mill Road.

g. Daniel Boone Parkway Tolls: The Transportation Cabinet shall remove the tolls from the Daniel Boone Parkway no later than June 30, 2002.

WORKFORCE DEVELOPMENT CABINET

50. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2000-2002 fiscal biennium.

b. Included in the Area Technical Center Equipment, Community Development Projects, as provided in Part II, Capital Projects are the following: $127,000 in fiscal year 2000-2001 for the Floyd County Area Technology Center for equipment and $125,000 in fiscal year 2000-2001 for the West Liberty Computer Repair Center.

c. One-Stop Center: The General Assembly directs $150,000 be expended for design of a One-Stop Center to be located in Rowan County under the provisions of the Employment Service's Facility Replacement and Renovation Policy.

51. EMPLOYMENT SERVICES

a. Facility Replacement/Renovation Policy: The Department for Employment Services is authorized to develop and implement a facility replacement and renovation program the purposes of which are to improve the quality of Workforce Development Cabinet facilities used by the Department for Employment Services and its clients, and to reduce departmental reliance on lease/rental properties.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2000-2001 and 2001-2002. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance (General Fund Surplus Account, KRS 48.700) are appropriated to the following: Endowment Fund and the Capital Facilities Fund as established in this Part of this Act; and the Budget Reserve Trust Fund established in KRS 48.705. Collectively, these three component funds make up the General Fund Surplus Expenditure Plan for fiscal years 2000-2001 and 2001-2002.

2. The General Fund amount appropriated to the Surplus Expenditure Plan from the undesignated fund balance in the General Fund at the close of fiscal year 1999-2000 and fiscal year 2000-2001 respectively shall not exceed the total for the appropriations made for fiscal years 2000-2001 and 2001-2002 combined. If the undesignated fund balance in the General Fund at the close of fiscal year 1999-2000 and at the close of fiscal year 2000-2001 totals less than the total combined Surplus Funds appropriation amounts for fiscal year 2000-2001 and fiscal year 2001-2002, the amount available for appropriation for fiscal year 2000-2001 and for fiscal year 2001-2002 pursuant to this section shall be the total undesignated fund balance amount at June 30, 2000, and at June 30, 2001, for the respective years. These amounts are appropriated in fiscal year 2000-2001 and in fiscal year 2001-2002, and shall be allocated in the following manner: 83.33 percent of the total General Fund surplus balance to the Endowment program of the Research Challenge Trust Fund of the Council on Postsecondary Education, and 16.67 percent to the Endowment program of the Regional University Excellence Trust Fund of the Council on Postsecondary Education not to exceed a total of $120,000,000. In the event that the total General Fund surplus balance at the close of fiscal year 1999-2000 shall be less than $120,000,000, a proportional amount of the General Fund surplus balance shall be allocated to each of the Trust Funds. In the event that the total General Fund surplus balance exceeds $120,000,000 at the close of fiscal year 1999-2000, the amount up to $10,000,000 that exceeds $120,000,000 shall be credited to the Capital Facilities Fund. In the event that the total General Fund surplus income balance exceeds $130,000,000 at the close of fiscal year 1999-2000, the amount of the balance that exceeds $130,000,000 shall be credited to the Budget Reserve Trust Fund.

3. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 1999-2000, and the close of fiscal year 2000-2001, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2000-2001 and fiscal year 2001-2002.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2000, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2000-2001 pursuant to the Plan.

4. To the extent that projects are enumerated in the priority ranking and sufficient General Fund moneys are not certified to be available for expenditure and appropriation in fiscal year 2000-2001, the remaining projects in the same priority order set forth in this Part are appropriated from the actual General Fund undesignated fund balance for the General Fund Surplus Account effective July 1, 2001, for fiscal year 2001-2002.

5. Individual project priority rankings have been established as follows:

Priority	General Fund Surplus Appropriations
I. ENDOWMENT FUND	
A. Council on Postsecondary Education	
Budget Unit Research Challenge Trust Fund	
1. Endowment Program	100,000,000

The total amount is appropriated in fiscal year 2000-2001.

Budget Unit	Regional Universities Excellence Trust Fund	
2.	Endowment Program	20,000,000
	The total amount is appropriated in fiscal year 2000-2001.	
Endowment Fund subtotal		120,000,000
II.	CAPITAL FACILITIES FUND	
A.	Department of Facilities Management	
1.	Emergency Repair, Maintenance and Replacement Fund	4,500,000
2.	Capital Construction and Equipment Contingency Fund	5,500,000
Capital Facilities Fund subtotal		10,000,000

6. To the extent that the available General Fund Surplus in fiscal year 1999-2000 exceeds the total component fund amounts allocated to fiscal year 2000-2001, then the additional available General Fund Surplus amount is appropriated for fiscal year 2001-2002 allocation to the component priorities.

7. Figures for amounts in all determinations, authorizations, and appropriations under the Plan shall be rounded to the lower hundredth dollar.

Notwithstanding KRS 48.140 and the provisions of Part X 1. to 5. above, if the total undesignated fund balance in the General Fund in fiscal year 1999-2000 and 2000-2001 respectively exceeds the total combined General Fund Surplus Plan appropriation amount, there is appropriated in fiscal year 2001-2002 to the Budget Reserve Trust Fund an amount that enables the Budget Reserve Trust Fund to contain a fund balance up to five percent (5%) of the actual General Fund revenue in fiscal year 2000-2001 which is an additional $109,921,600.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as anticipated by the 1998 Regular Session of the General Assembly in House Bill 321, Part III, item 29. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 40 Settling States which provides reimbursement to states for smoking related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586% of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year. The Commonwealth has already received the first such payment from which no funds have been expended pursuant to the policy set forth by the 1998 General Assembly.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, and previously settled states adjustments.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement funds shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement funds that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 1999-2000 is $137,800,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

5. From the estimated $137,800,000 in fiscal year 1999-2000 the General Assembly directs the following:

a. Fifty percent (50%) of the MSA payments received in fiscal year 1999-2000, which is estimated to be $68,900,000, is credited in fiscal year 1999-2000 to the General Fund Surplus Account.

(1) Eighty-three and thirty-three hundredths percent (83.33%) of this amount shall be dedicated to the Endowment Program of the Research Challenge Trust Fund of the Council on Postsecondary Education as specified in Part IX of this Act.

(2) Sixteen and sixty-seven hundredths percent (16.67%) of this amount shall be dedicated to the Endowment Program of the Regional University Excellence Trust Fund of the Council on Postsecondary Education as specified in Part X of this Act.

b. Fifty percent (50%) of the MSA payments received in fiscal year 1999-2000, which is estimated to be $68,900,000, is appropriated in fiscal year 2000-2001 to the Rural Development Fund attached to the Governor's Office for

Agriculture Policy to be used for agricultural development initiatives pursuant to enabling legislation to be considered by the 2000 General Assembly.

(1) Of this amount, $40,000,000 shall be designated and reserved to ensure that recipients of payments from the National Tobacco Grower Settlement Trust (Phase II Settlement) in calendar years 2000 and 2001 are compensated at a level not less than the compensation received from the Phase II Settlement in calendar year 1999.

6. It is estimated that MSA Phase I Tobacco Settlement Funds amounting to $101,100,000 in fiscal year 2000-2001 and $121,600,000 in fiscal year 2001-2002 will be received and available for appropriation.

a. Twenty-five percent (25%) of the MSA payments received in fiscal year 2000-2001, estimated to be $25,275,000, and in fiscal year 2001-2002, estimated to be $30,400,000, is appropriated to the Early Childhood Development Fund which is proposed to be established by enabling legislation in the Governor's Office for Early Childhood Development to be used for early childhood development initiatives. The Fund will be administered by a board to be established by enabling legislation.

b. Twenty-five percent (25%) of the MSA payments received in fiscal year 2000-2001, estimated to be $25,275,000, and in fiscal year 2001-2002, estimated to be $30,400,000, is appropriated to the Kentucky Health Care Improvement Fund which is proposed to be established by enabling legislation in the Department of Insurance to be used for health care initiatives. The Fund will be administered by a board to be legislatively established.

(1) Of these amounts, twenty percent (20%), estimated to be $5,055,000 in fiscal year 2000-2001 and $6,080,000 in fiscal year 2001-2002, shall be dedicated to a lung cancer research program. The appropriation for this initiative is contained within the appropriation amount for the Council on Postsecondary Education in Part I of the Act and is subject to approval by the board.

(2) Of these amounts, ten percent (10%), estimated to be $2,527,500 in fiscal year 2000-2001 and $3,040,000 in fiscal year 2001-2002, shall be dedicated to a smoking prevention program to be administered by the Department for Public Health in the Cabinet for Health Services. The appropriation for this initiative is contained within the appropriation amount for the Department for Public Health in the Cabinet for Health Services in Part I of the Act and is subject to approval by the board.

(3) Of these amounts, seventy percent (70%), estimated to be $17,692,500 in fiscal year 2000-2001 and $21,280,000 in fiscal year 2001-2002, shall be dedicated to a health insurance program for high cost individuals to be administered by the Department of Insurance in the Public Protection Cabinet. The appropriation for this initiative is contained within the appropriation amount for the Department of Insurance in the Public Protection Cabinet in Part I of the Act and is subject to approval by the board.

c. Fifty Percent (50%) of the MSA payments received in fiscal year 2000-2001, estimated to be $50,550,000, and in fiscal year 2001-2002, estimated to be $60,800,000, is appropriated to the Rural Development Fund which is proposed to be established in enabling legislation in the Governor's Office for Agriculture Policy to be used for agricultural development initiatives. The Fund will be administered by a board to be legislatively established.

d. Notwithstanding any provision in another enactment by the 2000 General Assembly and any other provision in this Act, there is appropriated out of the Kentucky Agricultural Development Fund to the Governor's office for Agricultural Policy the sum of $1,100,000 in fiscal year 2000-2001 and the sum of $1,250,000 in fiscal year 2001-2002 for the Aquaculture Production Ponds Construction Program.

The Aquaculture Production Ponds Construction Matching Program and the Aquaculture Infrastructure Components Program are established in the Governor's Office for Agricultural Policy. The Aquaculture Production Ponds Construction Matching Program shall match private dollars with program funds for the purpose of constructing ponds suitable for aquaculture on public or private lands. The Aquaculture Infrastructure Components Program may match private dollars with program funds or award grants for the purpose of purchasing or developing aquaculture infrastructure components and aquaculture marketing. The Governor's Office for Agricultural Policy shall have the authority to promulgate regulations to administer these programs. Moneys remaining at the end of the year shall not lapse, notwithstanding KRS 42.229.

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	1999-2000	2000-2001	2001-2002
General Fund 10,912,900	6,782,463,200	7,111,783,000	
Restricted Funds	24,583,200	3,093,616,800	3,182,655,000
Federal Funds 827,600	4,937,847,500	5,080,121,100	
Road Fund		1,209,014,800	1,324,330,600
Subtotal	36,323,700	16,022,942,300	16,698,889,700

CAPITAL PROJECTS BUDGET

	1999-2000	2000-2001	2001-2002
General Fund 700,000	8,922,000	4,554,000	

Restricted Funds	210,000	806,641,600	68,933,600
Federal Funds	23,624,600	2,250,500	
Bond Funds	881,009,100	2,500,000	
Road Fund		10,050,000	7,814,000
Agency Bonds	75,157,000		
Capital Construction Surplus		2,219,000	248,000
Investment Income		16,806,000	16,540,000
Deferred Maintenance		7,169,000	
Other Funds	172,142,000	7,216,000	
Emergency Repair, Replacement and Maintenance	2,210,000	5,379,000	
Subtotal	3,120,000	2,009,244,300	110,056,100

TOTAL-STATE/EXECUTIVE BUDGET

	1999-2000	2000-2001	2001-2002
General Fund 11,612,900.	6,791,385,200	7,116,337,000	
Restricted Funds	24,793,200	3,900,258,400	3,251,588,600
Federal Funds 827,600	4,961,472,100	5,082,371,600	
Road Fund		219,064,800	1,332,144,600
Bond Funds	881,009,100	2,500,000	
Agency Bonds	75,157,000		
Capital Construction Surplus		2,219,000	248,000
Investment Income		16,806,000	16,540,000
Deferred Maintenance		7,169,000	
Other Funds	172,142,000	7,216,000	
Emergency Repair, Replacement and Maintenance	2,210,000	5,379,000	
TOTAL FUNDS	39,443,700	18,032,061,600	16,808,945,800

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

Representative Moberly moved that the House refuse to concur in the Senate Committee Substitute to **HB 502**. Agreed.

On the roll call the vote was: **Yeas 67, Nays 25**. (See March 24, 2000 roll call on **HB 502** - Appendix.)

The House refused to concur in the Senate Committee Substitute to **HB 502**.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 178, HB 296, HB 390, HB 443, HB 483, HB 543, HB 616, HB 650, HB 737, HB 765, HB 768, HB 777, HB 870, HB 884, HJR 128,** and **HJR 131** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:00 p.m.)

Veto Message

The veto message on **HB 130** is as follows:

I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto **House Bill 130** as enacted by the 2000 Regular Session of the Kentucky General Assembly. I exercise this authority for the following reason:

House Bill 130 creates a new section of KRS 61.870 to 61.884 to prohibit public agencies from selling or distributing private wage data and any other information collected by the state from individuals and corporations. On its face this bill appears to be an effort to limit the selling of information by public agencies to third parties but the bill also contains provisions that are contrary to the meaning and intent of Kentucky's Open Records Law. In particular, **House Bill 130** conflicts with the public policy of the Open Records Law as declared by the General Assembly in 1992 which is that free and open examination of public records is in the public interest and that the exceptions provided for by law shall be strictly construed. The broad language prohibiting the distribution of essentially any filings required by a state agency and the vague language which attempts to resolve this situation by excluding information "that is part of a public record which is regularly and customarily open to inspection" are further reasons this bill, however well intentioned, would not be in the best interest of the Commonwealth. Done this 24th day of March, 2000 in Frankfort, Kentucky at 2:50 p.m.

Motions, Petitions, and Communications

Representative Draud moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 182, by Representatives Draud and Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Evelyn Davis Newton.

Representative Draud moved the adoption of the following **HR 182**:

HR 182, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Evelyn Davis Newton.

With deepest respect and admiration, we pay homage and tribute to Evelyn Davis Newton, and we pause in silent reverence for her soul.

WHEREAS, Evelyn Davis Newton, a native of Huntsville, Alabama, and longtime Kentucky resident, traversed these earthly bounds on March 23, 2000; and

WHEREAS, Evelyn Davis Newton was the devoted wife of C. M. Newton; and no language can express the power and beauty, the heroism and greatness of a mother's love, and Evelyn Davis Newton was the loving mother of two daughters, Deborah Jean Newton of Franklin, Tennessee and Tracy Lyn Chappelle of Tulsa, Oklahoma, and a son, Martin Newton of Lexington; and she was the proud grandmother of five grandchildren; and

WHEREAS, Evelyn Davis Newton graduated from Fort Lauderdale High School in 1948; she attended the University of Miami in Coral Gables on a diving scholarship, and she won several diving competitions in high school and college, and because of her swimming talent, she placed in the 1948 Olympic trials; and later, she taught diving at Vanderbilt University, where her husband coached basketball; and

WHEREAS, Evelyn Davis Newton was an esteemed member of the Central Kentucky community; she was a devout member of First Presbyterian Church where she served as an elder; she served on the board of the Chrysalis House, an alcohol/drug abuse treatment facility for women and children; and she was involved in fundraising for the Kentucky Chapter of the Leukemia Society of America; and

WHEREAS, Evelyn Davis Newton demonstrated an unwavering dedication to her family and friends, and she was an element of invincible strength to all the lives she touched; and

WHEREAS, the passing of Evelyn Davis Newton has left a void that can never be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement upon the passing of Evelyn Davis Newton, and extends to her family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns on March 24, 2000, it does so in loving memory and honor of Evelyn Davis Newton.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Jon Draud for presentation to the family of Evelyn Davis Newton.

There being no objection **HR 182** was adopted.

Roll call to show co-sponsors. (See March 24, 2000 roll call to show co-sponsors-Appendix.)

Representative Thomas moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 183, by Representative Sims: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Anna Lee Sims.

Representative Thomas moved the adoption of the following **HR 183**:

HR 183, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Anna Lee Sims.

With deepest respect and admiration, we pay homage and tribute to Anna Lee Sims, and we pause in silent reverence for her soul.

WHEREAS, Anna Lee Sims, a native of Hart County, Kentucky, traversed these earthly bounds on March 22, 2000; and she was the devoted wife of the late Anthony Sims; and

WHEREAS, no language can express the power and beauty, and the heroism and greatness of a mother's love, and Anna Lee Sims was the loving mother of five sons, Carlos Sims, who preceded her in passing, and Louis Sims, Richard Sims, James Sims, and Charles Sims, and three daughters, Evelyn Green, Doris Reynolds, and Barbara Hatfield; and

WHEREAS, the passing of Anna Lee Sims has left a void that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of bereavement upon the passing of Anna Lee Sims, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, March 24, 2000, it does so in loving memory and honor of Anna Lee Sims.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Dottie J. Sims for presentation to the family of Anna Lee Sims.

There being no objection **HR 183** was adopted.

Representative Hoover moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hoover moved the adoption of the following **HR 178**:

HR 178, A RESOLUTION honoring Daniel Latham, Basketball Player of the Year, 4th Region.

WHEREAS, Daniel Latham, a senior at Clinton County High School in Albany, Kentucky, has excelled in the sport of basketball, playing the position of forward, and because of his exceptional abilities during the 1999-2000 season, he was named Basketball Player of the Year in the 4th Region; and

WHEREAS, Daniel Latham has set the record for the most points scored in a season at Clinton County High School with 843 points for the 1999-2000 season; he ranks third on the All-Time Scoring List at Clinton County High School with 1,619 points; he is Kentucky's leading scorer, averaging 28.6 points per game; and he ranks second in the state in rebounding, averaging 14.5 rebounds per game; and

WHEREAS, Daniel Latham, due to his outstanding achievements during the 1999-2000 basketball season, has earned an automatic tryout for the Kentucky All-Star Team in the summer of 2000;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body extends its congratulations to Daniel Latham for his outstanding achievements during the 1999-2000 basketball season, and upon being named Player of the Year in the 4th Region. The honors bestowed upon Daniel Latham reflect upon his community and the Commonwealth of Kentucky, and we wish to him success in all future endeavors.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Mr. David Warinner, Principal, Clinton County High School, Route 4, P.O. Box 35, Albany, Kentucky 42602; Mr. Daniel Latham, Clinton County High School, Route 4, P.O. Box 35, Albany, Kentucky 42602; Mrs. Kathy Lee, Route 1, Albany, Kentucky 42602; Mr. Barry Latham, Route 3, Albany, Kentucky 42602; Mr. and Mrs. Billy K. Smith, Route 1, Albany, Kentucky 42602; and Mr. and Mrs. Jackie R. Latham, Old Highway 90, Albany, Kentucky 42602.

There being no objection **HR 178** was adopted.

Representative Westrom moved to withdraw House Floor Amendment No. 2 and House Floor Amendment No. 3 to **SB 11**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **SB 160**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **SB 247**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that her vote be changed from "yea" to "nay" on **SB 163**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wayne moved that his vote be changed from "yea" to "nay" on **HB 502**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that his vote be changed from "yea" to "nay" on **HB 502**. Agreed.

Representative Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lee moved that he be recorded as voting "yea" on **SB 68**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HR 106**. Agreed.

Representative Jenkins moved to withdraw House Floor Amendment No. 4 and House Floor Amendment No. 5 to **SB 294**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 194**, by Representative Simpson:

On page 3, line 18, after the word "revoke", place brackets and strikethroughs around the word "the"; and

On page 3, line 18, before the word "appointment", insert the words "***an initial***"; and

On page 3, line 18, after the word "him", insert the words "***or her***"; and

On page 3, line 19, after the word "the" insert "***initial***"; and

On page 3, line 19, after the word "appointment.", add the following new language: "***A sheriff may, at his or her pleasure, revoke a promotional appointment of a deputy who works for him or her at any time within one (1) year following the promotional appointment and shall return the deputy to his or her previous position within the sheriff's department.***".

Floor Amendment No. 1 to **SB 323**, by Representative Treesh:

On page 2, by deleting all of lines 18 through 27.

Floor Amendment No. 2 to **SB 323**, by Representative Treesh:

On page 4, after line 20, by adding the following:

"Section 3. KRS 132.820 is amended to read as follows:

(1) The cabinet shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall ~~[in all cases]~~be valued and assessed by the Revenue Cabinet as a distinct interest in real property, separate and apart from the surface real estate ***except as provided in Section 4 of this Act***.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the cabinet in a form as the cabinet may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the cabinet to file a return.

(3) Any property subject to assessment by the cabinet under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the cabinet, the cabinet shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

SECTION 4. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) If the requirements of subsection (2) of this section are met, the cabinet shall not assess unmined minerals and other energy resources as a distinct interest in real property, separate and apart from the surface real estate. The property valuation administrator shall assess the surface at its agricultural or horticultural value and any unmined minerals and other energy resources shall be considered as a value in excess of the agricultural or horticultural use as provided in KRS 132.450(2)(d).

(2) Unmined minerals and other energy resources within or beneath parcels of real estate classified as agricultural or horticultural, as defined in Section 5 of this Act, that are not being extracted shall be included as a part of the surface real estate and shall be subject to assessment by the property valuation administrator if the surface real estate and the unmined mineral or other energy resource are owned by the same taxpayer.

(3) Notwithstanding the provisions of this section to the contrary, any leasehold interest in unmined minerals and other energy resources shall be assessed by the cabinet as a distinct interest in real property separate and apart from the surface real property interest, against the owner of the leasehold interest.

Section 5. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

  (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

  (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

  (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

  (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

  (c) The value of improvements to existing nonresidential property;

  (d) The value of new residential improvements to property;

  (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government. ***Agricultural land shall include only the surface real estate if the mineral or energy resource rights have been severed. Agricultural land shall include both the surface real estate and the mineral or energy resources if the mineral or energy resource rights have not been severed and if the value of the mineral or energy resources is less than the value of the surface for agricultural use. Agricultural land shall include only the surface real estate if the mineral or energy resource rights have not been severed and if the value of the mineral or energy resources is greater than the value of the surface for agricultural use. However, in no case shall agricultural land include leasehold interests in mineral and energy resources.***

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, ***excluding the value of any unmined minerals and other energy resources if the conditions established by Section 4 of this Act are met, and*** excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational,

camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.".

Floor Amendment No. 2 to **SB 245**, by Representative Crimm:

On page 24, after line 5, by adding:

"SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any health benefit plan offered through associations, including employer-organized associations, may be sold by any agent licensed under this chapter.".

Floor Amendment No. 4 to **SB 40**, by Representative Crimm:

On page 9, after line 24, by adding:

"SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any health benefit plan offered through associations, including employer-organized associations, may be sold by any agent licensed under this chapter.".

Floor Amendment No. 1 to **SB 195**, by Representative Crimm:

On page 11, after line 15, by adding:

"SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any health benefit plan offered through associations, including employer-organized associations, may be sold by any agent licensed under this chapter.".

Floor Amendment No. 2 to **SB 15**, by Representative Rasche:

On page 4, after line 13, by inserting the following language:

"Section 2. KRS 6.505 is amended to read as follows:

(1) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of

each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530. An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.

(2) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(3) ***(a) Except as otherwise provided in paragraph (b) of this subsection,*** when any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.

(b) Any other provision of law to the contrary notwithstanding, a member of the Legislators' Retirement Plan who was previously an active member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System, and who would otherwise qualify for active membership in one of those plans, may elect, in writing, to transfer out of the Legislators' Retirement Plan to that other retirement plan for which the member would otherwise qualify. If an election under this paragraph is made, all service credit and benefits earned as a member of the Legislators' Retirement System shall be transferred, as well as the dollar amount equal to the member's and employer's contributions from the date the contributions were made to the date of the transfer, plus interest, at the actuarially assumed interest rate for the Legislators' Retirement Plan. The member shall be entitled to the transferred service credit in the plan to which the member seeks transfer, when the member pays the difference, if any, between the amount of the funds transferred by the Legislators' Retirement Plan and the cost of the credit to the system accepting the transfer as determined by the receiving system's actuary.

(4) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552."

Floor Amendment No. 1 to the House Committee Substitute to **SB 49**, by Representative Thomas:

On page 15, after line 15, by inserting the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "gray market cigarettes" means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale, and those foreign cigarettes that are not manufactured for sale in the United States and are eventually brought into the United States for sale.

(2) *Because nonparticipating manufacturers as defined under the Master Settlement Agreement and those who sell gray market cigarettes do not pay into the Master Settlement Agreement fund that is returned to the states under the Master Settlement Agreement, a supplemental tax is placed on those cigarettes sold by nonparticipating manufacturers and on gray market cigarettes, at the rate of fifteen cents ($0.15) per pack. The tax shall be paid to the Kentucky Revenue Cabinet and transferred to the tobacco settlement fund created in KRS 248.654*";

and by renumbering the remaining sections.

Floor Amendment No. 2 Title to **SB 49**, by Representative Thomas:

By amending the title to read as follows: "AN ACT relating to taxes.".

Floor Amendment No. 2 Title to **SB 336**, by Representative Thomas:

By amending the title to read as follows: "AN ACT relating to taxes.".

Floor Amendment No. 1 to **SB 336**, by Representative Thomas:

On page 16, after line 20, by inserting the following:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) *For the purposes of this section, "gray market cigarettes" means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale, and those foreign cigarettes that are not manufactured for sale in the United States and are eventually brought into the United States for sale.*

(2) *Because nonparticipating manufacturers as defined under the Master Settlement Agreement and those who sell gray market cigarettes do not pay into the Master Settlement Agreement fund that is returned to the states under the Master Settlement Agreement, a supplemental tax is placed on those cigarettes sold by nonparticipating manufacturers and on gray market cigarettes, at the rate of fifteen cents ($0.15) per pack. The tax shall be paid to the Kentucky Revenue Cabinet and transferred to the tobacco settlement fund created in KRS 248.654*".

Floor Amendment No. 5 to the House Committee Substitute No. 2 to **SB 290**, by Representative Anderson:

On page 14, line 6, by deleting "This Act" and inserting "Sections 1 to 17 of this Act" in lieu thereof; and

On page 14, after line 7, by inserting the following:

Section 18. KRS 224.01-010 is amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the Environmental Quality Commission;

(6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;

(7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled

aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:

(a) "Composting" may include a process which creates an anaerobic zone within the composting material;

(b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;

(8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(11) "District" means an air pollution control district as provided for in KRS Chapter 77;

(12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(13) "Generator" means any person, by site, whose act or process produces waste;

(14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;

(15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;

(16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;

(17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;

(19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;

(20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;

(21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;

(22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;

(23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;

(24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;

(26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;

(28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(31) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;

2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;

3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and

4. "Municipal solid waste" means household solid waste and commercial solid waste; and

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);

(33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the

waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;

(35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;

(36) "NPDES" means National Pollutant Discharge Elimination System;

(37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;

(39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;

(40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;

(41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;

(42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;

(43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;

(44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;

(45) "Universal collection" means a municipal solid waste ***curbside or end-of-driveway*** collection system which is established by ordinance and approved by the cabinet and requires ***participation by***[~~access for~~] each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;

(46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;

(47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;

(48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;

(49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;

(50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);

(51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;

(52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; and

(53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

SECTION 19. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsections (7), (8), and (9) of this section, each county, urban-county government, or charter

county government shall provide a universal collection program by July 1, 2001, for all municipal solid waste generated within the county. This collection program shall provide for curbside collection or collection at the end of driveways, and collection shall not be interrupted for failure to pay collection fees. Collection service may be provided by the county, by contract with a private entity, franchise, or under local permit.

(2) When collection is provided by contract, franchise, or under local permit, the county, urban-county government, or charter county government shall require reports from the entity providing collection to document the number of households served, volume of solid waste collected, and destination of solid waste.

(3) The county, urban-county government, or charter county government shall amend its solid waste management plan to include how universal collection will be funded and enforced. In order to facilitate uninterrupted collection service, the amended plan shall include the method of billing and collecting pick-up fees from households or solid waste generators, the method for pursuing collection of delinquent fees, and the method for tracking households or solid waste generators moving into the county.

(4) If a household or solid waste generator becomes delinquent in the payment of solid waste pick-up fees, the county, urban-county, or charter county government shall determine the reason for delinquency and pursue means to resolve the delinquency to ensure payment of solid waste pick-up fees. These means may include:

(a) Setting reduced solid waste pick-up fees for low income households; and

(b) Allowing an electric or other utility company to collect the solid waste pick-up fee for a commission or percentage of the total fees collected.

(5) The county, urban-county government, or charter county government may maintain staffed convenience centers or transfer facilities for the disposal of appliances, drop-off of bulk solid waste, and drop-off of recyclable material.

(6) The county, urban-county government, or charter county government shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with requirements established by this section. The report shall include the status and progress of the universal collection program, the rate of collection, strategy for pursuing delinquent accounts, strategy for pursuing nonsubscribers to the collection service, and method of tracking households or solid waste generators moving into the county.

(7) The county, urban-county government, or charter county government may enter into agreements with any person for performing the responsibilities described in this section, including cities within its geographic boundaries, but the county, urban-county government, or charter county government shall be responsible for providing the universal collection program described in this section, except any city of the first or second class having sole responsibility for developing its portion of the solid waste plan shall be responsible for providing the universal collection within its jurisdiction.

(8) A county, urban-county government, or charter county government shall be exempted from providing universal garbage collection if it has a solid waste collection program that meets or exceeds an seventy-five percent (75%) collection rate of household solid waste, and the cabinet approves the exemption. The county, urban-county government, or charter county government shall still be subject to reporting requirements as determined by the cabinet.

(9) If after one (1) year, a county, urban-county government, charter county government, or city fails to meet a collection rate of seventy-five percent (75%) for household solid waste for three (3) consecutive months, the cabinet shall issue a notice of intent to operate the universal collection program. Along with the notice of intent, the cabinet shall make recommendations on how to increase the collection rate. If the county, urban-county government, charter county government, or city fails to meet the collection rate for household solid waste within ninety (90) days following the notice of intent, the cabinet shall operate the universal collection program. The Commonwealth shall not endorse projects that generate solid waste under the Kentucky intergovernmental review process for any county, urban-county government, charter county government, or city that has a universal collection program operated by the cabinet.

(10) A commercial or industrial entity which transports or contracts for the transport of solid waste it generates or which operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program with approval by the county, urban-county government, or charter county government. This entity may be required by the county, urban-county government, or charter county government to periodically show proof that its solid waste is disposed of properly.

(11) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out this section.

SECTION 20. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In order to provide universal collection as established in Section 19 of this Act, a county, urban-county government, or charter county government may collect solid waste pick-up fees in advance by combining the pick-up fees with the property tax bill for the property where the solid waste pick-up is made. The fees shall be limited to operational costs.

(2) The pick-up fee when combined with the property tax bill shall be clearly set out as the amount owed for solid waste pick-up services and shall in no way be represented as an assessment based on the value of the property.

(3) If the owner of the property is not the occupant of the property where the solid waste is picked up, the owner of the property shall pay the solid waste pick-up fees for the property.

(4) If the owner of the property uses the property as a vacation home for a period of three (3) months or less, the county, urban-county government, or charter county government may waive the solid waste pick-up fee portion of the property tax bill if the owner of the property requests a waiver. In requesting the waiver, the owner shall certify that the property is a vacation home, and that the owner will remove solid waste from the property in a legal manner or temporarily subscribe for universal collection service while the property is in use.

(5) Sheriffs, property valuation administrators, and other appropriate local officials shall cooperate with a county, urban-county government, or charter county government in carrying out and enforcing this section.

Section 21. KRS 224.43-310 is amended to read as follows:

(1) The Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky is designated as the official planning and management agency of the Commonwealth of Kentucky in the field of solid waste. The cabinet shall have primary responsibility for coordinating the solid waste planning and management activities of waste management districts, counties, cities, area development districts, and any combination thereof and for the approval of solid waste management facilities. In doing so it shall be the goal of the cabinet to reduce the amount of solid waste disposed in municipal solid waste disposal facilities within the Commonwealth and to encourage regional management of solid waste.

(2) The cabinet shall have the primary responsibility to develop, review, report on, and triennially update a statewide solid waste reduction and management plan. A draft plan shall be prepared and made available for public inspection by December 1, 1991; a proposed final plan shall be submitted to the General Assembly by February 1, 1992; and a final plan shall be submitted to the General Assembly by March 1, 1992. The plan shall be designed to address the following:

(a) Coordination of area plans and provision of support for area planning efforts;

(b) Reductions in solid waste disposed in municipal solid waste disposal facilities within the Commonwealth by actively promoting reuse and reduction consistent with the goals established by KRS 224.43-010;

(c) Adequate capacity exists for recycling or disposal of solid waste generated within the Commonwealth for a five (5), ten (10), and twenty (20) year period;

(d) Disposal capacity for solid waste generated in the Commonwealth is maintained if the cabinet acts to close a solid waste management facility;

(e) Regional alternatives for waste reduction and management are encouraged in the planning process;

(f) Priority in grants and loans is afforded for regional waste reduction and management alternatives;

(g) Solid waste management plans meet minimum standards and procedures established by the cabinet in administrative regulations;

(h) A description of the status of solid waste reduction and management efforts in Kentucky;

(i) Identification of state actions and responsibilities necessary to implement this chapter; and

(j) Identification of problems impeding the attainment of the policies and goals of this chapter.

(3) The plan shall not establish maximum disposal capacity limitations for the Commonwealth.

(4) The cabinet, beginning July 1, 1992, shall report annually to the Governor and to the General Assembly on the status of solid waste management in the Commonwealth. The report filed July 1, 1992, shall present the current status of solid waste planning and management in the Commonwealth. Subsequent annual reports shall include, but not be limited to:

(a) The status of solid waste planning and management;

(b) The number and types of recycling and solid waste management facilities in the Commonwealth;

(c) The remaining permitted capacity of each permitted solid waste management facility;

(d) The number and types of solid waste grants or loans made to cities, counties, waste management districts, and area development districts;

(e) A compilation and analysis of solid waste reduction and management data provided to the cabinet;

(f) A statement of progress achieved in meeting the goals established by KRS 224.43-010;

(g) A statement of progress achieved in solid waste management education;

(h) A statement of progress achieved in establishing regional solid waste management approaches;

(i) ***A statement of progress achieved in the implementation and maintenance of universal collection programs by counties;***

(j) Any revisions in the statewide solid waste reduction and management plan; and

(k)~~[(j)]~~ Recommendations for improving the reduction and management of solid waste in the Commonwealth.

(5) Beginning January 1, 1993, each governing body shall report annually to the cabinet on the status of solid waste management in its area. The annual report shall include, but not be limited to:

(a) The amount of in-area and out-of-area municipal solid waste disposed in municipal solid waste disposal facilities in the area;

(b) The progress on the reduction in municipal solid waste disposal in the area since the previous reporting period and total cumulative progress made toward meeting the state reduction goal described in KRS 224.43-010;

(c) The remaining permitted capacity of disposal facilities;

(d) Recycling and composting activities in existence;

(e) Public information and education activities during the reporting period;

(f) ***The rate of collection by universal collection programs;***

(g) Fees for solid waste management assessed and collected; and

(h)~~[(g)]~~ Any other pertinent information as may be required by the cabinet.

(6) There is created a Solid Waste Reduction and Management Plan Advisory Committee to advise and review a draft and final solid waste reduction and management plan and any amendments of the plan prepared by the cabinet under subsection (2) of this section.

(7) The Solid Waste Reduction and Management Plan Advisory Committee shall consist of the secretary of the Natural Resources and Environmental Protection Cabinet or his designee who shall serve as chairman, one (1) member of the Senate to be appointed by the President, one (1) member of the House of Representatives to be appointed by the Speaker of the House of Representatives, and nine (9) members to be appointed by the Governor as follows:

(a) Two (2) members shall represent the interest of counties;

(b) Two (2) members shall represent the interests of cities, one (1) from a first or second class city or urban-county government and one (1) from either a third, fourth, fifth, or sixth class city;

(c) One (1) member shall represent the interests of industrial generators of solid wastes;

(d) One (1) member shall represent the private recycling industry;

(e) One (1) member shall represent the private solid waste disposal industry;

(f) One (1) member shall be from a statewide environmental advocacy organization; and

(g) One (1) member shall represent the public-at-large.

(8) Vacancies on the committee shall be filled in the same manner as the original appointment occurred.

(9) Nonlegislative members of the committee shall serve without pay and shall receive their reasonable and necessary expenses in connection with the performance of their duties.

(10) The committee shall meet at the call of the chairman. The committee may hold public hearings or make site visits as necessary. A quorum of its members is necessary to take action on any matter. A majority vote of the total members present must approve any action.

(11) Following adoption of the statewide solid waste reduction and management plan, the committee shall remain in service to provide guidance and advice to the cabinet in the implementation of the plan. The committee shall no longer remain in service after the 1994 General Assembly unless the 1994 General Assembly takes action to continue the committee.

Section 22. The following KRS sections are repealed:

224.43-315 Requirement for county universal municipal solid waste collection program -- Options -- Annual report -- Performance contract -- Effect of failure to comply -- Exclusion.

Section 23. Sections 18 to 22 of this Act take effect July 1, 2001.

Floor Amendment No. 6 to the House Committee Substitute No. 2 to **SB 290**, by Representative Anderson:

On page 14, line 6, by deleting "This Act" and inserting "Sections 1 to 17 of this Act" in lieu thereof; and

On page 14, after line 7, by inserting the following:

SECTION 18. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 18 to 26 of this Act, unless the context requires otherwise:

(1) "Board" means the board of directors of the Kentucky Recycling Cooperative Group;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Distribution center" means a recycling facility that is capable of receiving a variety of unprocessed or processed materials from satellite centers and materials recovery facilities, and that stores the material for further processing or for transport to the marketplace;

(4) "Group" means the Kentucky Recycling Cooperative Group;

(5) "Local government" means any county, urban-county government, waste management district, city, or charter county government;

(6) "Participating local government" means a local government entity that joins a region and participates in the Kentucky Recycling Cooperative Group;

(7) "Executive director" means the executive director of the Kentucky Recycling Cooperative Group, who shall also serve as chief executive officer of the group;

(8) "Region" means a group of three (3) or more counties combined to form a recycling operation; and

(9) "Satellite center" means a local government collection site for recovered materials containing minimal equipment that prepares material for transport to a materials recovery facility or distribution center.

SECTION 19. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a state recycling cooperative program, which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky that shall be a public body corporate and politic to be known as the Kentucky Recycling Cooperative Group. The group shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This group shall perform functions and purposes essential to managing the recycling cooperative program and disbursing moneys from the recycling cooperative fund established in Section 26 of this Act. It is the intent of the General Assembly that the Kentucky Recycling Cooperative Group shall assist regions in establishing a recycling cooperative program whereby participating local governments will be able to operate recycling programs and combine recovered material in order to market that material collectively through the Kentucky Recycling Cooperative Group.

(2) The existence of the group shall begin upon appointment of the members of the group by the Governor as provided in Section 20 of this Act, which shall occur no later than October 1, 2000.

(3) Participating local governments shall be eligible to receive grant and other money from the recycling cooperative fund established in Section 26 of this Act.

SECTION 20. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The affairs of the group shall be administered by a board of directors composed of fifteen (15) members as follows:

(a) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Council of Area Development Districts;

(b) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky League of Cities;

(c) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Association of Counties;

(d) One (1) person appointed by the Governor from the Department for Local Government;

(e) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Jailers' Association;

(f) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Sheriffs' Association;

(g) One (1) person appointed by the Governor, from a list of three (3) persons nominated by Adopt-a-Highway district coordinators;

(h) One (1) person appointed by the Governor from the Kentucky Environmental Education Council;

(i) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Solid Waste Coordinators of Kentucky;

(j) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Farm Bureau Federation;

(k) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Retail Federation;

(l) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Bottlers' Association;

(m) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Grocers' Association;

(n) One (1) person appointed by the Governor, from a list of three (3) persons nominated by the Kentucky Urban Affairs Council; and

(o) One (1) person appointed by the Governor from the Department of Corrections.

(2) No member of the board of directors shall knowingly use or attempt to use his or her influence in any manner that involves a substantial conflict between the member's personal or private interest and his or her duties to the group.

(3) Of the fifteen (15) members identified in paragraphs (a) to (o) of subsection (1) of this section and first appointed, five (5) shall continue in office for terms of one (1) year, five (5) for terms of two (2) years, and five (5) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case in the same manner as originally appointed. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. Members shall elect their own chair.

(4) Eight (8) members of the group shall constitute a quorum.

(5) The members of the Kentucky Recycling Cooperative Group shall serve without compensation but shall be reimbursed the reasonable and necessary expenses incurred by the members in performing the work of the group to be paid as an administrative cost of the group.

(6) The executive director of the group shall be hired by the board of directors. The executive director shall be qualified by training and experience to perform the duties of this office and carry out the purpose of Sections 18 to 26 of this Act and shall hold office at the pleasure of the group. The salary of the director shall be determined by the group. The director shall, upon the advice and consent of the group, employ and fix the compensation of such personnel as may be necessary to effectuate the provisions of Sections 18 to 26 of this Act.

SECTION 21. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The board of directors shall:

(a) Approve, disapprove, amend, or modify the budget, guidelines, and implementation plan recommended by the executive director for the recycling cooperative program;

(b) Establish guidelines for counties in the use of fund money utilizing the framework provided by area solid waste management plans as established in KRS 224.43-340;

(c) Develop a formula for the distribution of fund money as authorized by subsection (2) of Section 26 of this Act;

(d) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out and implement its powers and duties and the operation of the group;

(e) Assist in the development and implementation of statewide public education programs for recycling and solid waste reduction;

(f) Promote the development of resource recovery research and the development of markets within the Commonwealth of Kentucky for recovered material;

(g) Monitor activities and progress achieved in solid waste management and, with the advice of the solid waste industry, make recommendations to the General Assembly on ways to address future trends and needs of litter, open dumps, and recycling. Recommendations shall be provided to the General Assembly by October 1 of each year, beginning October 1, 2001; and

(h) Develop and submit an annual report by October 1 of each year, beginning October 1, 2001, to the General Assembly on the activities of the group, the administration of fund moneys, and any recommendations that would improve the recycling cooperative program and marketing of recovered material.

(2) In all other matters, the board shall advise and make recommendations.

SECTION 22. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The group shall conduct and administer the recycling cooperative program with a goal of establishing sound recycling operations at a regional level. It shall be the duty of the group, its employees, and the members of the board to provide for the effective operation of the recycling cooperative program which insures efficient use of resources and improvement of regional recycling operations. The group, in pursuit of the attainment of the objectives and purposes of Sections 18 to 26 of this Act, may:

(a) Sue and be sued in its corporate name;

(b) Adopt a corporate seal and a symbol;

(c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

(d) Incur debt in its own name and enter into financing agreements with state agencies of the Commonwealth or with commercial banks;

(e) Receive and accept grants, contributions of money, property, labor, or other things of value from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation to be used to carry out the functions of the group;

(f) Acquire or incorporate existing recycling operations into the recycling cooperative program that will further the role of the group;

(g) Create a nonprofit corporation in accordance with the provisions of KRS 273.161 to 273.390 to act as the instrumentality and constituted authority of the group in the acquisition and financing of any recycling operation; and

(h) Establish affiliation or brokerage fees, and establish services at cost subject to approval by the board to be used to carry out the functions of the group.

(2) The group shall:

(a) Implement and carry out the recycling cooperative program in accordance with the provisions of Sections 18 to 26 of this Act and the administrative regulations promulgated by the board or group;

(b) Distribute money from the recycling cooperative fund as authorized by Section 26 of this Act;

(c) Submit quarterly and annual reports to the board containing financial statements that include, but are not limited to, disclosure of gross revenues, expenses, and net proceeds for the period;

(d) Keep accurate books, records, and accounts of all entities receiving payments from the recycling cooperative fund;

(e) Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out Sections 18 to 26 of this Act;

(f) Develop a training program for participating local governments in the recycling cooperative program;

(g) Act as a state broker for regions seeking to sell recovered material by contracting with processors, secondary material manufacturers, or other brokers;

(h) Return to the participating local government its portion of money received from the sale of recovered material according to the quantity and type of recovered material and current market value; and

(i) Develop an economical transportation system for the recovered material to go to material recovery facilities or distribution centers and to market.

SECTION 23. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The executive director shall:

(a) Supervise and administer the recycling cooperative program in accordance with the provisions of Sections 18 to 26 of this Act and the administrative regulations promulgated by the board or group;

(b) Establish a budget, guidelines, and implementation plan for the group;

(c) Employ and direct personnel as may be necessary to carry out the purposes of Sections 18 to 26 of this Act;

(d) Make available for inspection by the board or any member of the board, upon request, all books, records, files, and other information and documents of the director's office and to advise the board and recommend administrative regulations and other matters the director deems necessary and advisable to improve the operation and administration of the recycling cooperative program; and

(e) Attend meetings of the board or appoint a designee to attend on his or her behalf;

(2) The executive director, with the approval of the board, may amend or modify the budget for the proper operation of the group.

SECTION 24. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) All money received by the group from tipping fees according to Section 25 of this Act shall be deposited into a recycling cooperative account in the State Treasury known as the "Recycling Cooperative Fund." Moneys in the recycling cooperative account shall not lapse at the close of the state fiscal year.

(2) Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the recycling cooperative account, and the costs of the audit shall be considered an administrative cost to be borne by the fund. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission, the Kentucky Recycling Cooperative Group, and the board.

SECTION 25. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Beginning January 1, 2001, every solid waste landfill shall have a tipping fee of one dollar and fifty cents ($1.50) per ton of waste disposed in addition to its regular tipping fee.

(2) Beginning January 1, 2001, operators of a solid waste landfill shall pay to the cabinet the tipping fee established in this section for each ton of waste disposed in a landfill in a manner and within time periods determined by the cabinet. The

fee shall be accompanied by a report or return in a form that the cabinet may prescribe by administrative regulation.

(3) If a landfill operator fails to make a payment and file a return required by this section on or before the due date established by the cabinet, the cabinet may assess a penalty of ten percent (10%) of the amount due, plus an additional penalty of five percent (5%) of the amount due for each additional month payment is late.

(4) All payments collected by the cabinet under this section shall be paid into the State Treasury and credited to the recycling cooperative fund established in Section 26 of this Act.

SECTION 26. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A trust fund, which shall be known as the "Recycling Cooperative Fund," is hereby created in the State Treasury of the Commonwealth to be administered by the Kentucky Recycling Cooperative Group established in Section 19 of this Act. All payments collected under Section 25 of this Act shall be deposited in the recycling cooperative fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.

(2) Money in the fund shall be used as follows:

(a) Up to fifty percent (50%) for infrastructure development and equipment for regional distribution centers, materials recovery facilities, satellite processing facilities, and ongoing recycling programs to be distributed to participating local governments through a grant program administered by the group;

(b) Up to forty percent (40%) for solid waste and recycling activities, litter and illegal dump cleanup, and the operation of universal solid waste collection, including the payment of uncollected solid waste pick-up fees, to be distributed to participating local governments through a formula based on population and total road miles to be determined by the board;

(c) Up to three percent (3%) of the fund shall be used for administrative costs by the Kentucky Recycling Cooperative Group and Revenue Cabinet;

(d) Up to five percent (5%) to be used as matching fund money for developing and implementing a recycling educational curriculum in elementary and secondary schools by the Kentucky Environmental Education Council; and

(e) Up to two percent (2%) to be used as matching fund money for the Adopt-a-Highway Program and public service announcements by the Department of Transportation.

(3) Unexpended money from subsection (2) of this section remaining in the fund at the end of the fiscal year shall revert to the recycling cooperative fund and shall be authorized and administered by the group for the operation of the recycling cooperative program, county solid waste management programs, and other solid waste activities as determined by the group.

(4) Each participating local government shall receive its share of the money from the sale of recovered material according to Section 22 of this Act. This money shall not be part of the recycling cooperative fund, but shall be maintained and accounted for by the group, and it shall be the executive director's responsibility to insure that each participating local government receives accurate payments from the sale of recovered material.

SECTION 27. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) A solid waste hauling operation that is subject to the tipping fee established in Section 25 of this Act and that is obligated by a contract or agreement that precludes recovery of the tipping fee shall be entitled to a nonrefundable credit against the Kentucky income tax liability established under this chapter. A solid waste hauling operation owned by a county, urban-county government, charter county government, or municipality that is obligated by a contract or agreement that precludes recovery of the tipping fee shall be entitled to a nonrefundable credit against the withholding of tax from employee wages as required by KRS 141.310. For any taxable year, the credit shall be in an amount equal to the tipping fee paid according to Section 25 of this Act that is not recoverable.

(2) The contract or agreement identified in subsection (1) of this section shall have been in existence at least three (3) months prior to the effective date of this Act, and shall preclude adjustments to the contract or agreement that would allow the tipping fee established in Section 25 of this Act to be added to the contract price.

(3) Any credit not used in the tax year in which it first becomes available may be carried forward to the next succeeding five (5) years until the credit has been fully used.

(4) A solid waste hauler claiming the credit under this section must submit proof of the contract or agreement as required by regulations issued by the Revenue Cabinet prior to the claiming of the credit.

Section 28. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

(h) The low income credit permitted by KRS 141.066;~~[and]~~

(i) The household and dependent care credit permitted by KRS 141.067***; and***

(j) The tipping fee credit permitted by Section 27 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) ***The tipping fee credit permitted by Section 27 of this Act;***

(g) The enterprise zone credit permitted by KRS 154.45-090; and

(h)~~[(g)]~~ The tax credit for cash contributions to investment funds permitted by KRS 154.20-263.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Floor Amendment No. 3 to the House Committee Substitute to **SB 248**, by Representative Barrows:

On page 7, after line 19 by inserting the following:

"Section 3. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except

that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means***:***

(a) The creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; ***or***

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from

time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown

by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 4. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three***

(3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.".

Floor Amendment No. 2 to the House Committee Substitute to **SB 289**, by Representative Westrom:

On page 9, after line 10, by inserting the following:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that deceptive promotional advertising of prizes and sweepstakes is a matter affecting vital public interests for the purpose of applying the Consumer Protection Act, KRS Chapter 367. The General Assembly further finds that the public health, welfare, and interest require a strong and effective law regarding deceptive promotional advertising of prizes and sweepstakes in order to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 9 to 14 of this Act:

(1) "Promotional offer" means any mailing or written communication directed to a specific address or named individual used to induce or invite a recipient to claim a prize or enter a drawing or sweepstakes. However, promotional offers contained in a magazine, newspaper, or periodical that is available for retail purchase in the same form and locality as those distributed by direct mail are excluded from this definition.

(2) "Person" means a natural person, partnership, corporation, trust, estate, association, cooperative, or other legal entity whether for profit or not for profit.

(3) "Prize" means any item or service of tangible value offered or awarded without obligation or consideration in a drawing, sweepstakes, or other game of chance to persons responding to a promotional offer.

(4) "Recipient" means any person who has received or is intended to receive a promotional offer.

(5) "Pseudo-check" means a document that has visual characteristics similar to, but is not actually, a negotiable instrument or currency. The term does not include clearly marked samples or specimens of negotiable instruments used to solicit orders for the purchase of preprinted negotiable instruments.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A promotional offer shall clearly and conspicuously disclose on the same page in which a prize is first mentioned in at least twelve (12) point type:

(a) The name, mailing address, and street address of the person making the promotional offer;

(b) The verifiable fair market value of each prize offered;

(c) The fact that no purchase is necessary to enter the promotion; and

(d) The date the prize winners will be selected.

(2) A promotional offer shall disclose the recipient's estimated odds of winning a prize if an element of chance is involved, expressed using Arabic numerals as a ratio of the total numbers of each prize relative to the total number of offers distributed. All disclosures required by this subsection shall be clear and conspicuous and printed immediately proximate to and on the same page as the first mention of the prize and shall utilize a typeface no smaller than twelve (12) point. Subsequent mentions of a prize shall not utilize a type size larger than that used for the first mention of the prize.

(3) Any promotional offer mentioning a prize shall include a separate form, or a designated place on the regular order form, allowing the recipient to:

(a) Enter the promotion on the same terms as a person making a purchase without actually having to purchase a product or service; and

(b) Have the recipient's name removed from the mailing list of the person making the promotional offer, during which time the recipient will not receive future promotional offers at the recipient's address for five (5) years after return of the form, unless the recipient later makes a written request to be put back on the mailing list.

(4) Advertisements, mailings, or other written communications offering an invitation to enter a drawing or sweepstakes that are made by a retail business having a permanent physical retail location in Kentucky, or by a person supplying

products directly or indirectly to that business for retail sale, to promote the sale of the business's retail products shall be exempt from the provisions of this section if no purchase is necessary for entry and either of the following applies:

(a) A majority of the drawings, redemptions, or prize awards occur at the retailer's permanent physical retail location in Kentucky; or

(b) A majority of the entries submitted by Kentucky residents are submitted at the retailer's permanent physical retail location in Kentucky.

SECTION 12. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A promotional offer shall not:

(1) State, represent, or imply that a recipient has won a particular prize unless the recipient has won that prize;

(2) State, represent, or imply that a recipient has a special status or relationship to the person making the promotional offer unless that recipient has such a special status or relationship;

(3) Require that a prize entry be accompanied by a payment for a product or service ordered;

(4) Use a pseudo-check unless the pseudo-check contains a statement printed in at least twelve (12) point type diagonally across its face that it is not a negotiable instrument and has no cash value;

(5) Use documents, lettering, forms, names, titles, or symbols resembling those of state or federal government agencies;

(6) State, represent, or imply that the purchase of a product or service will allow a prize entry to receive priority, make the recipient eligible to receive additional prizes or special treatment for future promotional offers, or that the purchase will affect the recipient's odds of winning a prize; or

(7) Use a fictitious person or name for officials, employees, agents, or representatives of the person making the promotional offer.

SECTION 13. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a violation of any provision of Sections 9 to 14 of this Act may bring an action in a court of competent jurisdiction against the violator. If the court finds that the defendant has violated any provision of Sections 9 to 14 of this Act, it shall enjoin the defendant from a continuation thereof and award the plaintiff a reasonable attorneys fee. Additionally, if the court finds that the defendant willfully violated any of the provisions of Section 12 of this Act, the plaintiff shall be entitled to recover three (3) times the amount of any actual damages sustained or three (3) times the fair market value of a prize represented to have been awarded to the recipient, whichever is greater. Nothing in this subsection shall abridge any rights to recover punitive damages or to proceed against the violator under any other provision of law.

(2) Any recipient bringing an action under this section must bring the action within one (1) year after any action of the Attorney General has been terminated or within two (2) years after the violation of Sections 9 to 14 of this Act, whichever is later. However, the time limits set out in this subsection may be tolled in the same manner as other causes of action as set out in KRS 413.170.

SECTION 14. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A violation of Sections 9 to 14 of this Act by any person making a promotional offer shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts and practices declared unlawful by Sections 9 to 14 of this Act.

(3) Nothing in Sections 9 to 14 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

(4) The Attorney General may promulgate administrative regulations reasonable or necessary to carry out the purposes and intent of Sections 9 to 14 of this Act.

Section 15. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Any person who willfully violates any of the provisions of Section 12 of this Act shall be guilty of a Class D felony.".

Floor Amendment No. 1 to **SB 275**, by Representative Barrows:

On page 7, after line 19 by inserting the following:

"Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter

6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means***:***

(a) The creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;***or***

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS

212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 3. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account; or***

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred

(100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.".

Floor Amendment No. 3 Title to **SB 289**, by Representative Westrom:

By amending the title to read as follows: "AN ACT relating to entities engaged in commercial activities."

Floor Amendment No. 1 to **SB 212**, by Representative Westrom:

On page 2, between lines 22 and 23, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that deceptive promotional advertising of prizes and sweepstakes is a matter affecting vital public interests for the purpose of applying the Consumer Protection Act, KRS Chapter 367. The General Assembly further finds that the public health, welfare, and interest require a strong and effective law regarding deceptive promotional advertising of prizes and sweepstakes in order to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 8 of this Act:

(1) "Promotional offer" means any mailing or written communication directed to a specific address or named individual used to induce or invite a recipient to claim a prize or enter a drawing or sweepstakes. However, promotional offers contained in a magazine, newspaper, or periodical that is available for retail purchase in the same form and locality as

those distributed by direct mail are excluded from this definition.

(2) "Person" means a natural person, partnership, corporation, trust, estate, association, cooperative, or other legal entity whether for profit or not for profit.

(3) "Prize" means any item or service of tangible value offered or awarded without obligation or consideration in a drawing, sweepstakes, or other game of chance to persons responding to a promotional offer.

(4) "Recipient" means any person who has received or is intended to receive a promotional offer.

(5) "Pseudo-check" means a document that has visual characteristics similar to, but is not actually, a negotiable instrument or currency. The term does not include clearly marked samples or specimens of negotiable instruments used to solicit orders for the purchase of preprinted negotiable instruments.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A promotional offer shall clearly and conspicuously disclose on the same page in which a prize is first mentioned in at least twelve (12) point type:

(a) The name, mailing address, and street address of the person making the promotional offer;

(b) The verifiable fair market value of each prize offered;

(c) The fact that no purchase is necessary to enter the promotion; and

(d) The date the prize winners will be selected.

(2) A promotional offer shall disclose the recipient's estimated odds of winning a prize if an element of chance is involved, expressed using Arabic numerals as a ratio of the total numbers of each prize relative to the total number of offers distributed. All disclosures required by this subsection shall be clear and conspicuous and printed immediately proximate to and on the same page as the first mention of the prize and shall utilize a typeface no smaller than twelve (12) point. Subsequent mentions of a prize shall not utilize a type size larger than that used for the first mention of the prize.

(3) Any promotional offer mentioning a prize shall include a separate form, or a designated place on the regular order form, allowing the recipient to:

(a) Enter the promotion on the same terms as a person making a purchase without actually having to purchase a product or service; and

(b) Have the recipient's name removed from the mailing list of the person making the promotional offer, during which time the recipient will not receive future promotional offers at the recipient's address for five (5) years after return of the form, unless the recipient later makes a written request to be put back on the mailing list.

(4) Advertisements, mailings, or other written communications offering an invitation to enter a drawing or sweepstakes that are made by a retail business having a permanent physical retail location in Kentucky, or by a person supplying products directly or indirectly to that business for retail sale, to promote the sale of the business's retail products shall be exempt from the provisions of this section if no purchase is necessary for entry and either of the following applies:

(a) A majority of the drawings, redemptions, or prize awards occur at the retailer's permanent physical retail location in Kentucky; or

(b) A majority of the entries submitted by Kentucky residents are submitted at the retailer's permanent physical retail location in Kentucky.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A promotional offer shall not:

(1) State, represent, or imply that a recipient has won a particular prize unless the recipient has won that prize;

(2) State, represent, or imply that a recipient has a special status or relationship to the person making the promotional offer unless that recipient has such a special status or relationship;

(3) Require that a prize entry be accompanied by a payment for a product or service ordered;

(4) Use a pseudo-check unless the pseudo-check contains a statement printed in at least twelve (12) point type diagonally across its face that it is not a negotiable instrument and has no cash value;

(5) Use documents, lettering, forms, names, titles, or symbols resembling those of state or federal government agencies;

(6) State, represent, or imply that the purchase of a product or service will allow a prize entry to receive priority, make the recipient eligible to receive additional prizes or special treatment for future promotional offers, or that the purchase will affect the recipient's odds of winning a prize; or

(7) Use a fictitious person or name for officials, employees, agents, or representatives of the person making the promotional offer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a violation of any provision of Sections 3 to 8 of this Act may bring an action in a court of

competent jurisdiction against the violator. If the court finds that the defendant has violated any provision of Sections 3 to 8 of this Act, it shall enjoin the defendant from a continuation thereof and award the plaintiff a reasonable attorneys fee. Additionally, if the court finds that the defendant willfully violated any of the provisions of Section 6 of this Act, the plaintiff shall be entitled to recover three (3) times the amount of any actual damages sustained or three (3) times the fair market value of a prize represented to have been awarded to the recipient, whichever is greater. Nothing in this subsection shall abridge any rights to recover punitive damages or to proceed against the violator under any other provision of law.

(2) Any recipient bringing an action under this section must bring the action within one (1) year after any action of the Attorney General has been terminated or within two (2) years after the violation of Sections 3 to 8 of this Act, whichever is later. However, the time limits set out in this subsection may be tolled in the same manner as other causes of action as set out in KRS 413.170.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A violation of Sections 3 to 8 of this Act by any person making a promotional offer shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts and practices declared unlawful by Sections 3 to 8 of this Act.

(3) Nothing in Sections 3 to 8 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

(4) The Attorney General may promulgate administrative regulations reasonable or necessary to carry out the purposes and intent of Sections 3 to 8 of this Act.

Section 9. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Any person who willfully violates any of the provisions of Section 6 of this Act shall be guilty of a Class D felony.", and by renumbering the subsequent section of the bill accordingly.

Floor Amendment No. 2 Title to **SB 212**, by Representative Westrom:

By amending the title to read as follows: "AN ACT relating to public protection."

Floor Amendment No. 3 to the House Committee Substitute to **SB 49**, by Representative Thomas:

On page 15, after line 15, by inserting the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "gray market cigarettes" means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale, and those foreign cigarettes that are not manufactured for sale in the United States and are eventually brought into the United States for sale.

(2) Because those who sell gray market cigarettes do not pay into the Master Settlement Agreement fund that is returned to the states under the Master Settlement Agreement, a supplemental tax is placed on gray market cigarettes, at the rate of fifteen cents ($0.15) per pack. The tax shall be paid to the Kentucky Revenue Cabinet and transferred to the tobacco settlement fund created in KRS 248.654";

and by renumbering the remaining sections.

Floor Amendment No. 3 to **SB 336**, by Representative Thomas:

On page 16, after line 20, by inserting the following:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "gray market cigarettes" means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale, and those foreign cigarettes that are not manufactured for sale in the United States and are eventually brought into the United States for sale.

(2) Because those who sell gray market cigarettes do not pay into the Master Settlement Agreement fund that is returned to the states under the Master Settlement Agreement, a supplemental tax is placed on gray market cigarettes, at the rate of fifteen cents ($0.15) per pack. The tax shall be paid to the Kentucky Revenue Cabinet and transferred to the tobacco settlement fund created in KRS 248.654".

Floor Amendment No. 2 to **SB 159**, by Representative Westrom:

On page 2, after line 27, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that deceptive promotional advertising of prizes and sweepstakes is a matter affecting vital public interests for the purpose of applying the Consumer Protection Act, KRS Chapter 367. The General Assembly further finds that the public health, welfare, and interest require a strong and effective law regarding deceptive promotional advertising of prizes and sweepstakes in order to protect the public interest and the well-being of both the consumer public and the ethical sellers of goods and services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 7 of this Act:

(1) "Promotional offer" means any mailing or written communication directed to a specific address or named individual used to induce or invite a recipient to claim a prize or enter a drawing or sweepstakes. However, promotional offers contained in a magazine, newspaper, or periodical that is available for retail purchase in the same form and locality as those distributed by direct mail are excluded from this definition;

(2) "Person" means a natural person, partnership, corporation, trust, estate, association, cooperative, or other legal entity whether for profit or not for profit;

(3) "Prize" means any item or service of tangible value offered or awarded without obligation or consideration in a drawing, sweepstakes, or other game of chance to persons responding to a promotional offer;

(4) "Recipient" means any person who has received or is intended to receive a promotional offer; and

(5) "Pseudo-check" means a document that has visual characteristics similar to, but is not actually, a negotiable instrument or currency. The term does not include clearly marked samples or specimens of negotiable instruments used to solicit orders for the purchase of preprinted negotiable instruments.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A promotional offer shall clearly and conspicuously disclose on the same page in which a prize is first mentioned in at least twelve (12) point type:

  (a) The name, mailing address, and street address of the person making the promotional offer;

  (b) The verifiable fair market value of each prize offered;

  (c) The fact that no purchase is necessary to enter the promotion; and

  (d) The date the prize winners will be selected.

(2) A promotional offer shall disclose the recipient's estimated odds of winning a prize if an element of chance is involved, expressed using Arabic numerals as a ratio of the total numbers of each prize relative to the total number of offers distributed. All disclosures required by this subsection shall be clear and conspicuous and printed immediately proximate to and on the same page as the first mention of the prize and shall utilize a typeface no smaller than twelve (12) point. Subsequent mentions of a prize shall not utilize a type size larger than that used for the first mention of the prize.

(3) Any promotional offer mentioning a prize shall include a separate form, or a designated place on the regular order form, allowing the recipient to:

  (a) Enter the promotion on the same terms as a person making a purchase without actually having to purchase a product or service; and

  (b) Have the recipient's name removed from the mailing list of the person making the promotional offer, during which time the recipient will not receive future promotional offers at the recipient's address for five (5) years after return of the form, unless the recipient later makes a written request to be put back on the mailing list.

(4) Advertisements, mailings, or other written communications offering an invitation to enter a drawing or sweepstakes that are made by a retail business having a permanent physical retail location in Kentucky, or by a person supplying products directly or indirectly to that business for retail sale, to promote the sale of the business's retail products shall be exempt from the provisions of this section if no purchase is necessary for entry and either of the following applies:

(a) A majority of the drawings, redemptions, or prize awards occur at the retailer's permanent physical retail location in Kentucky; or

(b) A majority of the entries submitted by Kentucky residents are submitted at the retailer's permanent physical retail location in Kentucky.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A promotional offer shall not:

(1) State, represent, or imply that a recipient has won a particular prize unless the recipient has won that prize;

(2) State, represent, or imply that a recipient has a special status or relationship to the person making the promotional offer unless that recipient has such a special status or relationship;

(3) Require that a prize entry be accompanied by a payment for a product or service ordered;

(4) Use a pseudo-check unless the pseudo-check contains a statement printed in at least twelve (12) point type diagonally across its face that it is not a negotiable instrument and has no cash value;

(5) Use documents, lettering, forms, names, titles, or symbols resembling those of state or federal government agencies;

(6) State, represent, or imply that the purchase of a product or service will allow a prize entry to receive priority, make the recipient eligible to receive additional prizes or special treatment for future promotional offers, or that the purchase will affect the recipient's odds of winning a prize.; or

(7) Use a fictitious person or name for officials, employees, agents, or representatives of the person making the promotional offer.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a violation of any provision of Sections 2 to 7 of this Act may bring an action in a court of competent jurisdiction against the violator. If the court finds that the defendant has violated any provision of Sections 2 to 7 of this Act, it shall enjoin the defendant from a continuation thereof and award the plaintiff a reasonable attorneys fee. Additionally, if the court finds that the defendant willfully violated any of the provisions of Section 5 of this Act, the plaintiff shall be entitled to recover three (3) times the amount of any actual damages sustained or three (3) times the fair market value of a prize represented to have been awarded to the recipient, whichever is greater. Nothing in this subsection shall abridge any rights to recover punitive damages or to proceed against the violator under any other provision of law.

(2) Any recipient bringing an action under this section must bring the action within one (1) year after any action of the Attorney General has been terminated or within two (2) years after the violation of Sections 2 to 7 of this Act, whichever is later. However, the time limits set out in this subsection may be tolled in the same manner as other causes of action as set out in KRS 413.170.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A violation of Sections 2 to 7 of this Act by any person making a promotional offer shall constitute an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and the penalties provided in KRS 367.990 shall apply with equal force and effect to acts and practices declared unlawful by Sections 2 to 7 of this Act.

(3) Nothing in Sections 2 to 7 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law.

(4) The Attorney General may promulgate administrative regulations reasonable or necessary to carry out the purposes and intent of Sections 2 to 7 of this Act.

Section 8. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars

($10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

(23) Any person who willfully violates any of the provisions of Section 5 of this Act shall be guilty of a Class D felony.".

Floor Amendment No. 3 Title to **SB 159**, by Representative Westrom:

By amending the title to read as follows: "AN ACT relating to public protection.".

Floor Amendment No. 1 to the House Committee Substitute to **SB 75**, by Representative Upchurch:

On page 9, beginning on line 14 and ending with line 24 by deleting Section 5 in its entirety.

Floor Amendment No. 2 to **SB 195**, by Representative Damron:

On page 11, after line 15, by inserting the following:

"SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 15 to 18 of this Act, unless the context requires otherwise:

(1) "Mental health condition" means any condition or disorder that involves mental illness or alcohol and other drug abuse as defined in KRS 222.005 and that falls under any of the diagnostic categories listed in the Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition) or that is listed in the mental disorders section of the international classification of disease, or the most recent subsequent editions;

(2) "Terms or conditions" includes day or visit limits, episodes of care, any lifetime or annual payment limits, deductibles, copayments, prescription coverage, coinsurance, out-of-pocket limits, and any other cost-sharing requirements; and

(3) "Treatment of a mental health condition" includes, but is not limited to, any necessary outpatient, inpatient, residential, partial hospitalization, day treatment, emergency detoxification, or crisis stabilization services.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law, a health benefit plan issued or renewed after the effective date of this Act that provides coverage for treatment of a mental health condition shall provide coverage of any treatment for a mental health condition under the same terms or conditions as provided for treatment of a physical health condition.

(2) Expenses for mental health and physical health conditions shall be combined for purposes of meeting deductible and out-of-pocket limits required under a health benefit plan.

(3) A health benefit plan that does not otherwise provide for management of care under the plan or that does not provide for the same degree of management of care for all health or mental health conditions may provide coverage for treatment of mental health conditions through a managed care organization.

(4) For the purposes of a health benefit plan issued or renewed on or after the effective date of this Act, any mental health condition that is excluded from the standard health benefit plan authorized by KRS 304.17A-250 and in effect on January 1, 2000, may continue as an exclusion under this section.

(5) A violation of this section shall constitute an act of discrimination and shall be an unfair trade practice under this chapter. The remedies provided under Subtitle 12 of this chapter shall apply to conduct in violation of this section.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sixty (60) days prior to the regular session of the General Assembly in 2002, and sixty (60) days prior to each subsequent regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission on the impact on health insurance costs of Sections 15 to 18 of this Act.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 15 to 18 of this Act shall be construed as mandating coverage for mental health conditions.

(2) The following shall be exempt from the provisions of Sections 15 to 18 of this Act:

(a) A group health benefit plan covering fewer than fifty (50) employees;

(b) An individual health benefit plan; and

(c) An employer-organized association as defined in KRS 304.17A-005.".

Floor Amendment No. 4 to **SB 336**, by Representative Thomas:

On page 16, after line 20, by inserting the following:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "gray market cigarettes" means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale, and those foreign cigarettes that are not manufactured for sale in the United States and are eventually brought into the United States for sale.

(2) Because those who sell gray market cigarettes do not pay into the Master Settlement Agreement fund that is returned to the states under the Master Settlement Agreement, a supplemental tax is placed on those who sell gray market cigarettes in the Commonwealth, and who are not Nonparticipating Manufacturers as defined in the Master Settlement Agreement, at the rate of fifteen cents ($0.15) per pack. The tax shall be paid to the Kentucky Revenue Cabinet and transferred to the tobacco settlement fund created in KRS 248.654.".

Floor Amendment No. 4 to the House Committee Substitute to **SB 49**, by Representative Thomas:

On page 15, after line 15, by inserting the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "gray market cigarettes" means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale, and those foreign cigarettes that are not manufactured for sale in the United States and are eventually brought into the United States for sale.

(2) Because those who sell gray market cigarettes do not pay into the Master Settlement Agreement fund that is returned to the states under the Master Settlement Agreement, a supplemental tax is placed on those who sell gray market cigarettes in the Commonwealth, and who are not Nonparticipating Manufacturers as defined in the Master Settlement Agreement, at the rate of fifteen cents ($0.15) per pack. The tax shall be paid to the Kentucky Revenue Cabinet and transferred to the tobacco settlement fund created in KRS 248.654.";

and by renumbering the remaining sections.

Floor Amendment No. 3 to **SB 218**, by Representative Webb:

On page 32, between lines 11 and 12, insert:

"SECTION 18. A NEW SECTION OF KRS 205.710 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) In any county where the county attorney is the designee of the cabinet for the purpose of administering the program of child support recovery, the county attorney may appoint one (1) or more child support enforcement officers to assist in the execution or service of all forms of legal process relating to the establishment, enforcement, and collection of child support. These officers shall have all the powers of a peace officer under state law. A child support enforcement officer shall not be automatically deemed an interested party in litigation merely by virtue of serving process on behalf of the Commonwealth.

(2) Any person appointed a child support enforcement officer shall meet the minimum requirements of a peace officer contained in KRS 61.300.

(3) Within one (1) year of the appointment of any child support enforcement officer, the county attorney shall obtain Kentucky Law Enforcement Council certification of each appointee under KRS 15.380 to 15.402. If the county attorney seeks certification through Kentucky Law Enforcement Council administered tests, the council shall waive all costs of the required tests under KRS 15.384."; and

On page 32, line 12, delete "18" and insert in lieu thereof "19".

Floor Amendment No. 1 to the House Committee Substitute to **SB 314**, by Representative Geveden:

On page 1, line 7, by deleting everything after the period, and

On page 1, by deleting lines 8 and 9 in their entirety, and

On page 2, by deleting lines 7 through 26 in their entirety, and by inserting in lieu thereof the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Miscarriage" means the interruption of the normal development of the fetus, other than by a live birth or by an induced abortion as permitted by law, and that results in the complete expulsion or extraction of the fetus from the pregnant woman; and

(b) "Stillbirth" means the death of a fetus prior to the complete expulsion or extraction from a woman without regard to the duration of the pregnancy and that is not an induced abortion as permitted by law.

(2) In addition to any other damages allowable by law, an action brought by a woman for personal injury may include recovery for the loss of her fetus if the personal injury results in miscarriage or stillbirth.

(3) The damages provided for in subsection (2) of this section shall survive the death of the pregnant woman and an action for the recovery of those damages may be brought or maintained by her personal representative.

(4) Nothing in this section shall apply to:

(a) Acts of physicians that cause the death of a fetus if those acts were committed:

1. During any abortion to which the woman has consented;

2. Incident to an in vitro fertilization procedure; or

3. As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the physician exercised that degree of care and skill which an ordinarily careful, skilled, and prudent physician would exercise under the same or similar circumstances; or

(b) Acts of a pregnant woman that cause the death of her fetus.".

Floor Amendment No. 2 Title to **SB 314**, by Representative Geveden:

By amending the title to read as follows: "AN ACT relating to civil actions.".

Floor Amendment No. 3 to **SB 15**, by Representative Geveden:

On page 4, after line 13 by inserting the following:

"Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and

employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means***:***

(a) The creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used***; or***

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-five (25) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 3. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-five (25) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account; or***

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.".

Floor Amendment No. 2 to **SB 275**, by Representative Geveden:

On page 7, after line 19 by inserting the following:

"Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue

Code;

(14) "Final compensation" of a member means***:***

(a) The creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;***or***

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-five (25) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 3. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-five (25) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account; or***

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.".

Floor Amendment No. 1 to **SB 349**, by Representative C. Belcher:

On page 84, line 1, after the word "means" by inserting the following: "***:***
(a)"; and

On page 84, between line 9 and 10, by inserting the following:

"***(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;***"; and

On page 116, line 18, after "(b)" by inserting the following:

" ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2000, and January 31, 2005, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation shall mean the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing***

funds of the retirement allowance account; or

(c)".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bill and Resolution under rules previously suspended:

HB 47:	Representative Kerr
HR 166:	Representative Palumbo

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 27, 2000.

On the roll call the vote was **Yeas 69**--R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Bratcher, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cherry, Childers, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Damron, DeWeese, Draud, Fischer, Ford, Geveden, Gooch, Graham, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lindsay, Marzian, McKee, Miller, Napier, Palmer, Palumbo, Rasche, Ratliff, Richards, Riner, Scott, Siler, Simpson, Stacy, Stumbo, Tapp, Thomas, Thompson, Treesh, Vincent, Wayne, Weaver, Webb, Westrom, Wilkey, Yonts. **Nays 7**--Ausmus, Cave, Crall, Feeley, Hoover, Nesler, Stewart.

The motion to adjourn was adopted.

MARCH 27, 2000

FIFTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rabbi Avrohom Litvin, Ansheisford Congregation, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 24, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **HB 258, HB 324, HB 525, HB 571, HB 668,** and **HCR 82**. (Time: 2:10 p.m.)

Message in regard to **HB 156**: The Senate has passed **HB 156** with Senate Committee Amendment and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 331**: The Senate has passed **HB 331** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 488**: The Senate has passed **HB 488** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 577**: The Senate has passed **HB 577** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 611**: The Senate has passed **HB 611** by way of Senate Committee Substitute, Senate Floor Amendments, and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 629**: The Senate has passed **HB 629** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 677**: The Senate has passed **HB 677** by way of Senate Committee Substitute and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 901**: The Senate has passed **HB 901** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 992**: The Senate has passed **HB 992** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 502**: The Senate has refused to recede from its Senate Committee Substitute to **HB 502** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators David Williams, Chairman, Dan Kelly, and David Karem.

Message in regard to **HB 576**: The Senate has passed **HB 576** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Introduction of Resolutions

HR 181, by Representatives Geveden and Yonts: A RESOLUTION encouraging the Department for Local Government to develop a uniform indexing system.

HR 184, by Representatives Richards, L. Clark, Callahan, and Barrows: A RESOLUTION adjourning the House of Representatives in honor of the staff of the Legislative Research Commission.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Elections, Constitutional Amendments, and Intergovernmental Affairs: **SB 70**

Local Government: **SB 359**

House Floor: **HR 179, HR 180**

Calendar

SB 119, SB 209, SB 220, SB 332, SB 347, SB 350, SB 314, SB 408, SB 349, HR 166, HR 169, and **HR 170** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Napier moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Napier moved the adoption of the following **Legislative Citation No. 146**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the Berea Community High School Boys Varsity Cheerleaders for outstanding performance throughout the school year which culminated in this remarkable group of athletes being named CANAM 2000 Small Varsity Champions at the national competition held in Myrtle Beach, South Carolina; capturing 1st Place in the East Region YMCA Cheerleading Competition, the CANAM Regional Greater Kentucky Cheer Off and the District 44, 2 1/2 minute routine at the KAPOS At-Large Cheerleading Competition; and 2nd Place in the State YMCA Cheerleading Competition, Small Varsity Division of the Class A Cheerleading Competition and the Region 11 In-Game Cheerleading Competition. Inasmuch as these outstanding young students, under the guidance of Coaches Teresa Jefferson and Cathy Cornett, have demonstrated remarkable talent and dedication in these worthwhile endeavors and, as a result, have brought great honor to both school and community, the members of this distinguished body are delighted to join Representative Lonnie Napier in applauding the achievements of these cheerleaders and in extending best wishes for their continued academic and athletic victories. Done in Frankfort, this twenty-seventh day of March, in the year two thousand.

Legislative Citation No. 146 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 78, SB 137, SB 147, SB 160, SB 171, SB 215, SB 259, SB 324, SJR 73, SCR 88,** and **SJR 104** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:30 p.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 258, HB 324, HB 525, HB 571, HB 668,** and **HCR 82** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:55 p.m.)

Senate Message (Continued)

Message in regard to **HB 231**: The Senate has passed **HB 231** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 354**: The Senate has passed **HB 354** by way of Senate Committee Substitute, Senate Floor Amendment, and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 373**: The Senate has passed **HB 373** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 585**: The Senate has passed **HB 585** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 706**: The Senate has passed **HB 706** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HJR 14**: The Senate has passed **HJR 14** with Senate Committee Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HCR 44**: The Senate has passed **HCR 44** by way of Senate Committee Substitute, Senate Floor Amendment, and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 502**: The Senate has appointed the following members to serve on a Free Conference Committee to **HB 502**. Senators Williams, Chairman, Kelly, Borders, Roeding, Tori, Sanders, Karem, Long, Bailey, and Scorsone. (Time: 2:55 p.m.)

Representative Jenkins moved that House Floor Amendment No. 1 and House Floor Amendment No. 2 to **SB 326** be withdrawn. Agreed.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **SB 4, SB 69, SB 309, SB 409, SB 1, SB 77, SB 49, HR 166, HR 170, SB 119, SB 314, SB 347, SB 349,** and **SB 350** have been posted for passage in the Orders of the Day for March 28, 2000.

Representative Stumbo moved to request the Senate to return **SB 152** to the House for correction. Agreed.

Representative Stumbo moved that **SB 40** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that **SB 149** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Orders of the Day

SB 194, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **SB 194** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 27 , 2000 roll call on **SB 194** - Appendix.)

SB 194 was passed and the title agreed to.

Representative Yonts moved that the vote by which **SB 194** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 212, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SB 212** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 27 , 2000 roll call on **SB 212** - Appendix.)

SB 212 was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 212** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SB 172** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that **SB 46** be recommitted to the Committee on Appropriations and Revenue. Agreed.

A letter received from the Senate asking that a House Conference Committee be appointed for **HB 502**.

A letter was received from the Senate naming the Senate members of a Free Conference Committee for **HB 502**.

SB 254, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of House Floor Amendment No. 3 to **SB 254**. Agreed.

Representative Fischer moved that **SB 254**, as amended, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 27, 2000 roll call on **SB 254** - Appendix.)

SB 254, as amended, was passed.

Representative Fischer moved the adoption of House Floor Amendment No. 2 Title to **SB 254**. Agreed; and the title was agreed to.

Representative Fischer moved that the vote by which **SB 254**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 11, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the House Committee Substitute to **SB 11**. Agreed.

Representative Lindsay moved that **SB 11**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See March 27, 2000 roll call on **SB 11** - Appendix.)

SB 11, by way of House Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 11**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 76, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of House Floor Amendment No. 1 to **SB 76**. Agreed.

Representative Treesh moved that **SB 76**, as amended, be passed.

On the roll call the vote was: **Yeas 98**, **Nays 1**. (See March 27, 2000 roll call on **SB 76** - Appendix.)

SB 76, as amended, was passed and the title agreed to.

Representative Treesh moved that the vote by which **SB 76**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SB 74** be recommitted to the Committee on State Government. Agreed.

SB 159, with House Committee Amendment and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of House Committee Amendment No. 1 to **SB 159**. Agreed.

Representative R. Adams moved that **SB 159**, as amended, be passed.

Representative Gray moved the adoption of House Floor Amendment No. 1 to **SB 159**. Agreed.

Representative R. Adams inquired if House Floor Amendment No. 1 to **SB 159** was germane.

The Speaker ruled that House Floor Amendment No. 1 to **SB 159** was not germane.

Representative R. Adams moved that **SB 159**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 2**. (See March 27, 2000 roll call on **SB 159** - Appendix.)

SB 159, as amended, was passed and the title agreed to.

Representative R. Adams moved that the vote by which **SB 159**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SB 189** be recommitted to the Committee on Appropriations and Revenue. Agreed.

SB 326, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 326** be passed.

On the roll call the vote was: **Yeas 80, Nays 11**. (See March 27 , 2000 roll call on **SB 326** - Appendix.)

SB 326 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 326** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SJR 68** be recommitted to the Committee on State Government. Agreed.

Representative Stumbo moved that **SB 298** be recommitted to the Committee on Appropriations and Revenue. Agreed.

SB 36, with House Committee Amendment and House Floor Amendments attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of House Committee Amendment No. 1 to **SB 36**. Agreed.

Representative Lindsay moved that **SB 36**, as amended, be passed.

Representative Anderson inquired if House Committee Amendment No. 1 to **SB 36** was germane.

The Speaker ruled that House Committee Amendment No. 1 to **SB 36** was germane.

Representative Lindsay moved that **SB 36**, as amended, be passed.

On the roll call the vote was: **Yeas 66, Nays 25**. (See March 27, 2000 roll call on **SB 36** - Appendix.)

SB 36, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 36**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HJR 145** be recommitted to the Committee on Appropriations and Revenue. Agreed.

SB 336, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **SB 336** be passed.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See March 27 , 2000 roll call on **SB 336** - Appendix.)

SB 336 was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 336** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 110 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **SJR 110** be adopted.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See March 27, 2000 roll call on **SJR 110** - Appendix.)

SJR 110 was adopted.

Representative Siler moved that the vote by which **SJR 110** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 134 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **SB 134** be passed.

On the roll call the vote was: **Yeas 63**, **Nays 18**. (See March 27 , 2000 roll call on **SB 134** - Appendix.)

SB 134 was passed and the title agreed to.

Representative Napier moved that the vote by which **SB 134** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 263, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the House Committee Substitute to **SB 263**. Agreed.

Representative Wilkey moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 263**. Agreed.

Representative Wilkey moved that **SB 263**, by way of House Committee Substitute as amended, be passed.

Representative Damron moved the adoption of House Floor Amendment No. 3 to the House Committee Substitute to **SB 263**.

The Speaker ruled that the House rules must be suspended to act on House Floor Amendment No. 3 to the House Committee Substitute to **SB 263**.

Representative Damron moved that the rules be suspended to act upon House Floor Amendment No. 3 to the House Committee Substitute to **SB 263**.

On the roll call the vote was: **Yeas 90**, **Nays 3**. (See March 27, 2000 roll call on the motion that the rules be suspended to act upon House Floor Amendment No. 3 to the House Committee Substitute to **SB 263**-Appendix.)

The motion that the rules be suspended to act upon House Floor Amendment No. 3 to the House Committee Substitute to **SB 263** was adopted.

Representative Damron moved the adoption of House Floor Amendment No. 3 to the House Committee Substitute to **SB 263**. Agreed.

Representative Wilkey moved that **SB 263**, by way of House Committee Substitute as amended, be passed.

Representative Cave inquired if the House Committee Substitute to **SB 263** contained substantial text of any other bill filed this session.

Representative Wilkey stated that the House Committee Substitute to **SB 263** was somewhat similar to **HB 498** but did not contain substantial text of that bill.

Representative Cave inquired if **SB 263**, as amended was now in order.

The Speaker ruled that **SB 263**, as amended was in order.

Representative Cave inquired as to what rule pertains to this issue.

The Speaker ruled that it has been a long-standing practice in the House to not consider committee amendments as piggybacks. That is determined in committee.

Representative Wilkey moved that **SB 263**, by way of House Committee Substitute as amended, be passed and the title was agreed to.

On the roll call the vote was: **Yeas 81, Nays 13**. (See March 27, 2000 roll call on **SB 263** - Appendix.)

SB 263, by way of House Committee Substitute as amended, was passed.

Representative Wilkey moved that the vote by which **SB 263**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

SB 152 returned to the House for further consideration. (Time: 5:30 p.m.)

Orders of the Day (Continued)

Representative Callahan moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Callahan moved the adoption of the following **Legislative Citation No. 149**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates the Women's Basketball Team of Northern Kentucky University for phenomenal skill and perseverance which resulted in this extraordinary group of athletes finishing the season with an overall record of 32-2, enjoying a winning streak of 24 consecutive victories; winning for the 2nd consecutive year, the NCAA Great Lakes Regional tournament, thereby qualifying the team for its 2nd appearance in the NCAA Elite Eight Championship; and winning their first NCAA Division II National Basketball Championship. The NKU team counts among its talented members, Boone County native Michelle Cottrell, who earned Most Outstanding Player of the NCAA national championship and Kodak All-American and Michele Tuchfarber, who was named to the all-tournament team. Inasmuch as this championship team, under the skilled tutelage of coach Nancy Winstel, the GLVC Coach of the Year and the prestigious Women's Basketball Coaches Association Division II National Coach of the Year, has demonstrated remarkable talent and dedication to the sport of basketball and, as a result, has brought great honor to both school and community, the members of this distinguished body are delighted to join with Representative Jim Callahan and Representative Jon E. Draud in applauding the stellar achievements of the Northern Kentucky University Women's Basketball Team. Done in Frankfort, this twenty-seventh day of March, in the year two thousand.

Legislative Citation No. 149 was adopted without objection.

Representative Stumbo moved that the rules be suspended to appoint a Free Conference Committee and a Conference Committee. Agreed.

The Speaker appointed the following members to serve on a Conference Committee to **HB 502**: Representatives Moberly, Chairman; Ford and Richards.

The Speaker appointed the following members to serve on a Free Conference Committee to **HB 502**: Representatives Moberly, Chairman; Richards; L. Clark; Stumbo; Callahan; Barrows; Ford; Draud; Napier and Siler.

Representative Wilkey moved to reconsider the vote to place the motion to reconsider the vote by which **SB 263** was passed on the table, and then to reconsider the vote by which **SB 263** was passed.

On the roll call the vote was: **Yeas 75, Nays 0**. (See March 27, 2000 roll call on the motion to reconsider the vote by which **SB 263** was passed-Appendix.)

The motion to reconsider the vote to place the motion to reconsider the vote by which **SB 263** was passed on the table, and to reconsider the vote by which **SB 263** was passed was adopted.

Representative Wilkey moved the adoption of House Floor Amendment No. 5 Title to **SB 263**. Agreed; and the title was agreed to.

Representative Wilkey moved that the vote by which **SB 263**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 316 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 316** be passed.

On the roll call the vote was: **Yeas 91, Nays 3**. (See March 27 , 2000 roll call on **SB 316** - Appendix.)

SB 316 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 316** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 75, with House Committee Substitute, House Committee Amendment, and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Upchurch moved the adoption of the House Committee Substitute to **SB 75**.

The Speaker Pro Tem assumed the Chair.

Representative Feeley inquired if the House Committee Substitute No. 1 to **SB 75** was germane.

The Speaker ruled that the House Committee Substitute No. 1 to **SB 75** was not germane.

The Speaker resumed the Chair.

Representative Riggs moved that **SB 75** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 27, 2000 roll call on **SB 75** - Appendix.)

SB 75 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 75** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 115 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 115** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 27 , 2000 roll call on **SB 115** - Appendix.)

SB 115 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 115** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 197 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 197** be placed back in the Orders of the Day and retain it's position. Agreed.

SB 216 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **SB 216** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 27 , 2000 roll call on **SB 216** - Appendix.)

SB 216 was passed and the title agreed to.

Representative Bowling moved that the vote by which **SB 216** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 23, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **SB 23** be passed.

Representative Stumbo moved that **SB 23** be placed back in the Orders of the Day and retain it's position. Agreed.

SB 197 taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **SB 197** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 27 , 2000 roll call on **SB 197** - Appendix.)

SB 197 was passed and the title agreed to.

Representative Stacy moved that the vote by which **SB 197** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 225, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **SB 225** be passed.

Representative J. Turner moved the adoption of House Floor Amendment No. 1 to **SB 225**.

Representative Marzian inquired if House Floor Amendment No. 1 to **SB 225** was germane.

The Speaker ruled that House Floor Amendment No. 1 to **SB 225** was germane.

Representative Bather moved that **SB 225** be laid on the Clerk's desk.

Representative Bather moved that the motion that **SB 225** be laid on the Clerk's desk be withdrawn. Agreed.

Representative Riggs inquired if Floor Amendment No. 1 to **SB 225** was germane.

The Speaker ruled that House Floor Amendment No. 1 to **SB 225** was germane.

Representative Damron moved that **SB 225** be laid on the Clerk's desk.

On the roll call the vote was: **Yeas 3, Nays 79**. (See March 27, 2000 roll call on the motion that **SB 225** be laid on the Clerk's desk- Appendix.)

The motion that **SB 225** be laid on the Clerk's desk was defeated.

Representative J. Turner moved the adoption of House Floor Amendment No. 1 to **SB 225**.

On the roll call the vote was: **Yeas 57, Nays 39**. (See March 27, 2000 roll call on the adoption of House Floor Amendment No. 1 to **SB 225** - Appendix.)

House Floor Amendment No. 1 to **SB 225** was adopted.

Representative Palumbo moved that **SB 225**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 4**. (See March 27, 2000 roll call on **SB 225** - Appendix.)

SB 225, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **SB 225**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 288, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the House Committee Substitute to **SB 288**. Agreed.

Representative Barrows moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 288**. Agreed.

Representative Barrows moved the adoption of House Floor Amendment No. 3 to the House Committee Substitute to **SB 288**. Agreed.

Representative Barrows moved that **SB 288**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 27, 2000 roll call on **SB 288** - Appendix.)

SB 288, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 288**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **HB 328, HB 385, HB 475, HB 789,** and **HB 950**. (Time: 6:05 p.m.)

Message in regard to **HB 537**: The Senate has passed **HB 537** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 664**: The Senate has passed **HB 664** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 939**: The Senate has passed **HB 939** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Orders of the Day (Continued)

SB 323, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 323** be passed.

Representative Treesh inquired if the rules must be suspended to consider House Floor Amendment No. 2 to **SB 323**.

The Speaker ruled that the rules must be suspended to consider House Floor Amendment No. 2 to **SB 323**.

Representative Treesh moved the adoption of House Floor Amendment No. 2 to **SB 323**.

The Speaker ruled that House Floor Amendment No. 2 to **SB 323** was a piggyback.

Representative Treesh moved that the rules be suspended to act on House Floor Amendment No. 2 to **SB 323**.

On the roll call the vote was: **Yeas 37, Nays 45**. (See March 27, 2000 roll call on motion that the rules be suspended to act upon House Floor Amendment No. 2 to **SB 323** - Appendix.)

The motion that the rules be suspended to act upon House Floor Amendment No. 2 to **SB 323** was defeated.

Representative Treesh moved the adoption of House Floor Amendment No. 1 to **SB 323**. Agreed.

Representative Barrows moved that **SB 323**, as amended, be passed.

On the roll call the vote was: **Yeas 47, Nays 49**. (See March 27, 2000 roll call on **SB 323** - Appendix.)

SB 323, as amended, was defeated.

SB 372 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **SB 372** be passed.

On the roll call the vote was: **Yeas 68, Nays 25**. (See March 27 , 2000 roll call on **SB 372** - Appendix.)

SB 372 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **SB 372** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 379 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SB 379** be passed.

On the roll call the vote was: **Yeas 64, Nays 28**. (See March 27 , 2000 roll call on **SB 379** - Appendix.)

SB 379 was passed and the title agreed to.

Representative Geveden moved that the vote by which **SB 379** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 8, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 8** is as follows:

HB 8, AN ACT relating to fines and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, ***189.285,*** 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is ***five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than one thousand dollars ($1,000)***~~[two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60)]~~.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

[~~(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).~~]

Section 2. KRS 189.285 is amended to read as follows:

(1) A person shall not operate a motorcycle on a highway:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) A person shall not operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.

(3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:

(a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;

(b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; ***and***

(c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle[~~; and~~

~~(d) Any person who does not provide proof of health insurance to the county clerk when registering a motorcycle in accordance with KRS 186.865~~].

(4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

(5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(6) As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

(7) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic

centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

Section 3. The following KRS section is repealed:

186.865 Motorcycle registration requirements -- Health insurance requirements.

Section 4. Whereas many individuals have been cited for excessive fines under changes inadvertently made to KRS 189.990(2)(a) by the 1998 General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 8** is as follows:

By amending the title to read: "AN ACT relating to traffic regulations and declaring an emergency.".

Representative Collins moved that the House refuse to concur in the Senate Committee Substitute to **HB 8**. Agreed.

HB 100, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 100** is as follows:

HB 100, AN ACT relating to special military-related license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 186.041 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The provisions of this section shall govern the issuance of all special military-related license plates. A person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;

2. Received an early release due to injuries or other medical condition, or at the convenience of the service;

3. Received a hardship discharge;

4. Was separated or retired due to a disability; or

5. Was determined to have a service-connected disability incurred during the enlistment.

(2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection:

(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge;

(b) The initial registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:

1. Former prisoners of war licensed under subsection (10) of this section;

2. Survivors of Pearl Harbor licensed under subsection (11) of this section; and

3. Members of the National Guard licensed under subsection (12) of this section.

(c) The initial registration fee and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:

1. Disabled veterans licensed under subsection (6) of this section;

2. Purple Heart recipients licensed under subsection (9) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart *recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;*

3. Members of the Civil Air Patrol licensed under subsection (13) of this section; and

4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (14) of this section.

(3) A person initially applying for, or renewing, any special license plate issued under this section may donate five dollars ($5) to support the veterans' program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money on a quarterly basis to the Department of Veterans Affairs and deposited into the veterans' program trust fund established by KRS 40.460(2)(b).

(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month. License plates issued under this section shall be replaced on the same schedule as regular license plates are replaced by the Transportation Cabinet under KRS 186.240. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease.

(5) A recipient of the Congressional Medal of Honor or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.

(6) A veteran who has been declared to be at least seventy percent (70%) disabled by the United States Department of Veterans Affairs and has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.

(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.

(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(9) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.

(10) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoners of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.

(11) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

(12) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (15) of this section.

(13) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (15) of this section.

(14) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;

2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;

3. A veteran's decal may further indicate a veteran's service in a wartime era; and

4. A registration number.

(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (15) of this section.

(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.

(15) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the special military-related license plate being surrendered.

(16) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.

(17) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.

(18) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(19) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Any other provision of law to the contrary notwithstanding, a city, county, town, or other political subdivision of this state shall not require any license or fee from a disabled veteran or recipient of the Congressional Medal of Honor who has been issued a special military-related license plate under Section 1 of this Act, for the privilege of operating a motor vehicle upon any street or alley.

(2) When a motor vehicle bearing a special military-related license plate for disabled veterans or recipients of the Congressional Medal of Honor is being operated by or for the benefit of the person, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities unless a local ordinance or police regulation:

(a) Prohibits parking on a highway for the purpose of creating a fire lane:

(b) Provides for the accommodation of heavy traffic during morning, afternoon, or evening hours; or

(c) Prohibits parking a motor vehicle in a manner as to clearly be a traffic hazard.

Section 3. The following KRS sections are repealed:

186.044 License plates for recipients of a Purple Heart medal.

186.1701 Special license plate for former prisoner of war.

186.1702 Special license plate for survivors of the attack on Pearl Harbor.

186.173 Special license plates for active or retired members of the National Guard.

186.1731 License plate for members of the Civil Air Patrol.

186.1732 Special license plate for active, reserve, retired, and veteran members of the United States Armed Forces.

186.182 Special license plates for recipients of Congressional Medal of Honor.

186.1861 Special license plates for United States Veterans.

Section 4. Any funds the Transportation Cabinet has received with applications for a United States Veterans license plate under KRS 186.1861 shall be refunded to each applicant within thirty (30) days of the effective date of this Act. Any trust and agency account established by the Transportation Cabinet for funds received under KRS 186.1861 is terminated.

Section 5. Any person who purchased a special license plate under KRS 186.1732 between June 1, 1999, and the effective date of this Act shall be eligible for a twenty-five dollar ($25) credit toward future state registration renewal fees on the motor vehicle bearing the license plate issued under KRS 186.1732, if the person presents written proof to the county clerk in the form of a canceled check or a registration receipt that the person paid a thirty-seven dollar ($37) state fee for a license plate issued under KRS 186.1732 between June 1, 1999, and the effective date of this Act.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 100** is as follows:

On page 2, line 4, delete "***twelve dollar ($12)***" and insert in lieu thereof "***seventeen dollar ($17)***", and after the words "***state fee***" insert "***that shall be divided under the provisions of subsection (3) of this section and***"; and

On page 2, line 14, after "***The initial registration fee***" insert "***shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section,***"; and

On page 3, lines 2 through 7, delete lines 2 through 7 in their entirety and insert in lieu thereof:

"***(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Department of Veterans Affairs on a quarterly basis and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money on a quarterly basis to the Department of Veterans Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).***".

Representative Cherry moved that the House refuse to concur in the Senate Committee Substitute to **HB 100**. Agreed.

Representative Cherry moved that the House refuse to concur in the Senate Floor Amendment No. 1 to **HB 100**. Agreed.

HB 619, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 619** is as follows:

On page 3, after line 4, by inserting the following:

"Section 2. KRS 189.285 is amended to read as follows:

(1) A person shall not operate a motorcycle on a highway:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) A person shall not operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.

(3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:

(a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;

(b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; ***and***

(c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle[~~; and~~

~~(d) Any person who does not provide proof of health insurance to the county clerk when registering a motorcycle in accordance with KRS 186.865~~].

(4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

(5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(6) As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

(7) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

Section 3. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, ***Section 2 of this Act,*** 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not

more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

~~[(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).]~~

Section 4. The following KRS section is repealed:

186.865 Motorcycle registration requirements -- Health insurance requirements.".

Representative Treesh moved that the House concur in Senate Floor Amendment No. 1 to **HB 619**.

On the roll call the vote was: **Yeas 68, Nays 25** (See March 27, 2000 roll call on concurrence of Senate Floor Amendment No. 1 to **HB 619** - Appendix.)

The House concurred in Senate Floor Amendment No. 1 to **HB 619**.

Representative Treesh moved that **HB 619**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 87, Nays 12**. (See March 27, 2000 roll call on **HB 619** - Appendix.)

HB 619, as amended by the Senate, was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 619**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SB 152** be placed back in the Orders of the Day. Agreed.

SB 152, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the vote by which **SB 152** was passed be reconsidered.

On the roll call the vote was: **Yeas 80, Nays 4** (See March 27, 2000 roll call on the motion to reconsider the vote by which **SB 152** was passed- Appendix.)

The motion that the vote by which **SB 152** was passed be reconsidered was adopted.

Representative Stumbo moved the adoption of the House Committee Substitute to **SB 152**. Agreed.

Representative Stumbo moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 152**. Agreed.

Representative Stumbo moved the adoption of House Floor Amendment No. 3 to the House Committee Substitute to **SB 152**. Agreed.

Representative Stumbo moved that **SB 152**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 52, Nays 40.** (See March 27, 2000 roll call on **SB 152** - Appendix.)

SB 152, by way of Committee Substitute as amended, was passed.

Representative Stumbo moved the adoption of House Floor Amendment No. 1 Title to **SB 152**. Agreed; and the title was agreed to.

Representative Stumbo moved that the vote by which **SB 152**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HB 341** be placed back in the Orders of the Day. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SB 70**. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., March 28, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions (Continued)

HR 185, by Representatives Yonts and Geveden: A RESOLUTION encouraging the Legislative Research Commission to undertake a study to develop a uniform indexing system to be used by Kentucky county clerks.

HR 186, by Representatives Weaver and Haydon: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Major Robert Stephen Hacker.

HR 187, by Representative Hoover: A RESOLUTION urging the Legislative Research Commission to study the possibility of operating a child care center for the children of Legislative Research Commission employees.

HR 188, by Representatives Stumbo, Branham, Richards, and Barrows: A RESOLUTION honoring Floyd County upon the occasion of its Bicentennial Celebration.

HR 189, by Representatives Webb, Adkins, Vincent, Anderson, and Stacy: A RESOLUTION honoring the West Carter High School girls' basketball team on winning its first state basketball tournament title.

Motions, Petitions, and Communications (Continued)

Representative Crenshaw moved the adoption of the following **HR 168**:

HR 168, A RESOLUTION recognizing and adjourning the House of Representatives in honor of Chester A. Higgins, Sr.

WHEREAS, Chester A. Higgins, Sr. was born on May 1, 1917, and attended Louisa M. Alcott Elementary School, Chicago, Illinois; Dunbar High School, Lexington, Kentucky; Kentucky State College, Frankfort, Kentucky; Louisville Municipal College, Louisville, Kentucky; and the University of Louisville, Louisville, Kentucky; and

WHEREAS, Chester A. Higgins, Sr. has lived a full and complete life with many and varied experiences, from his work as farm help, dishwasher, busboy, waiter, short-order cook, and assistant chef, to his foreign and domestic service in the United States Army during World War II in various capacities including: Sergeant, Drill Sergeant, Bugler, Reconnaissance Sergeant, Rations Sergeant, Weapons Sergeant, Assistant Supply Sergeant, and Motor Pool Sergeant, having been honorably discharged after attaining the rank of Corporal; and

WHEREAS, Chester A. Higgins, Sr. has utilized his natural talent for the spoken language in his capacities as International Organizer, United Electrical, Radio & Machine Workers of America; as Salesman for the Mammoth Life & Accident Insurance Company, Louisville, Kentucky; as Salesman for the Great Lakes Mutual Life Insurance Company, Detroit, Michigan; as Salesman for Diggs' Metropolitan Mutual Life Insurance Company, Detroit, Michigan; and as a consultant with C. Delores Tucker; and

WHEREAS, Chester A. Higgins, Sr. has utilized his natural talent for the written language in his capacities as Reporter for the Louisville Defender Newspaper, Louisville, Kentucky; as Executive Secretary, National Negro Labor Council, Louisville, Kentucky; as Rewriter, Reporter, City Editor, Feature Editor, and Editor of the Pittsburgh Courier; as Managing Editor of the Star Journal; as Managing Editor of Ecorse; as Associate Editor and Senior Editor of the nationally recognized Jet Magazine; as Senior

Editor of the nationally recognized Black Stars Magazine; and as Contributing Editor of the nationally recognized Ebony Magazine and Tan Magazine; and

WHEREAS, Chester A. Higgins, Sr. has distinguished himself as a college instructor at Malcolm X College, Chicago, Illinois; as a Lecturer at the Center for Urban Affairs, Michigan State University, East Lansing, Michigan; and as an active participant in the 1969 Soul Music Preservation Conference, the United States Virgin Islands; and

WHEREAS, Chester A. Higgins, Sr. has received awards, citations, and commendations, and is responsible for news and entertainment reports, feature and cover stories, and other writings and public panel discussions too numerous to list; and

WHEREAS, Chester A. Higgins, Sr. has tirelessly devoted his time and served as Special Assistant to Benjamin L. Hooks, the first Black Commissioner of the Federal Communications Commission; as Vice-Chairman on the Committee for Commemoration of the Birthday of Dr. Martin Luther King, Jr.; and as an officer and member of many committees, clubs, and boards, including the Capitol Press Club; National Press Club; National Broadcasters Club; National Academy of Television Arts & Sciences; Dean of the School of Communications Search Committee, Howard University; Project Build, Voice Of Informed Community Expression (VOICE) of Washington, D.C.; Young Men's Christian Association of Washington, D.C.; and People United To Save Humanity (PUSH);

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby honor and express its sincere appreciation to Chester A. Higgins, Sr. for his diligent devotion to the art of the English language.

Section 2. This august association does hereby recognize Chester A. Higgins, Sr. for his immeasurable contributions to the Commonwealth of Kentucky as a prolific orator and writer, while exemplifying the dedication, professionalism, and high standards that so many individuals seek, but so few accomplish.

Section 3. This venerable institution does hereby wish for Chester A. Higgins, Sr. success in all future endeavors and a speedy recovery.

Section 4. When the House of Representatives adjourns this day, it does so in honor of Chester A. Higgins, Sr.

Section 5. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Chester A. Higgins, Sr., 2139 Wyoming Street, N.W., Washington, D.C. 20008.

There being no objection **HR 168** was adopted.

Representative Crall moved the adoption of the following **Legislative Citation No. 145**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Kentucky General Assembly as it enters the 21st Century with the highest expectations and brightest hopes for its citizens and its future. Whereas, the General Assembly draws its bold resolve from its storied history; a history of opportunities often seized and opportunities sometimes squandered; a history replete with examples of stellar accomplishments as well as yet-to-be developed potential frequently disguised as weakness and maligned as failure; and whereas, the General Assembly conducts its business under the shadow and in the light of the "great seal" of Kentucky, whose inscribed motto is "United we stand, divided we fall;" and, whereas this great seal and this timeless motto inspires the work of the General Assembly in recognizing the inalienable rights and treasured privileges endowed and allowed by the Creator; and, whereas, the General Assembly, conscious of and committed to the moral force of its Constitution, the laws accordingly prescribed therefrom and the character inalterably demanded thereby, does also extol the wonder of its design, the benefits of its function and the wisdom of its foreordained procedures of governance; and whereas the promise of this new millennium does importune the affirmation, of all affiliated herewith, of the integrity envisioned at its design and codified in its articulation of precepts (inclusive of but exclusive to statutes, regulations, rules, procedures and the like) for the effectuation of its exclusively prescribed functions. Therefore, be it noted, that the General Assembly of the Commonwealth of Kentucky does hereby, on this 24th day of March, 2000, join with Representative Brian Crall in commending, congratulating and celebrating the proud heritage of this institution and its even brighter future and does also hereby adjourn itself in honor of those great leaders whose impeccable character and unparalleled exploits have proceeded this first session of this new millennium. Done in Frankfort, this twenty-fourth day of March, in the year two thousand.

Legislative Citation No. 145 was adopted without objection.

Roll call to show co-sponsors. (See March 27, 2000 roll call to show co-sponsors-Appendix.)

Representative Gooch moved the adoption of the following **Legislative Citation No. 150**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of James A. Gooch, Sr. and earnestly joins with his loving son, Representative Jim Gooch, Jr. in honoring the memory this distinguished Kentucky citizen on the first anniversary of his death. The beloved father of two other children, Sheila Gooch

Kelley and Eddie Gooch, this esteemed gentleman, the founder of West Kentucky Steel Construction Company, was deeply involved in the community. He served as a board member of the Green River Area Development District, as a member of the Providence City Council and as a 33rd degree Mason. The members of this honorable body respectfully join with Representative Jim Gooch, Jr. in adjourning on this day in tribute to James A. Gooch, Sr., who will long be remembered and held dear by all those whose lives were touched by his remarkable presence. Done in Frankfort, this twenty-seventh day of March, in the year two thousand.

Legislative Citation No. 150 was adopted without objection.

Representative Stein moved that the Journal reflect that she abstained from voting on to **SB 225** in compliance to Section 57 of the Kentucky Constitution. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "yea" on **SB 78, SB 137, SB 147, SB 160, SB 171, SB 279, SB 305,** and **SB 324**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "nay" on **SB 163, SB 215, SB 247,** and **HB 502**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gooch moved that his vote be changed from "yea" to "nay" on **SB 326**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ausmus moved that he be recorded as voting "yea" on **SB 194, SB 212, SB 254, SB 11,** and **SB 76**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" on **SB 115**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that her vote be changed from "nay" to "yea" on **SB 152**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that her vote be changed from "yea" to "nay" on Senate Floor Amendment No. 1 to **HB 619**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Baugh moved that he be recorded as voting "yea" on **SB 152**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "nay" on **SB 152**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" to "abstain" on **SB 152**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Johns moved that her vote be changed from "nay" to "yea" on **HB 619**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that she be recorded as voting "yea" on **SB 288**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **SB 212**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **SB 288**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that he be recorded as voting "yea" on **Adjournment** on March 24, 2000. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 326** and **SB 263**. Agreed.

Representative Crimm moved that House Floor Amendment No. 1 to **SB 195** be withdrawn. Agreed.

Representative Yonts moved that House Floor Amendment No. 1 and House Floor Amendment No. 2 to **SB 309** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 to **SB 223**, by Representative Gray:

On page 3, between lines 7 and 8, by inserting the following:

"Section 3. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance, except a substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers[~~ or,~~] that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class C felony.

(b) For a second or subsequent offense be guilty of a Class B felony.

Section 4. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when the actor:

(a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

1. A state, county, city, or federal peace officer;
2. An employee of a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
3. An employee of the Department for Social Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or
4. A probation and parole officer; or

(b) Being a person confined in a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employee of the facility.

(2) ***For the purposes of this section, the terms "throws" and "thrown" shall in addition to their ordinary meanings, include any act whereby a confined person intentionally causes human feces, urine, or any other bodily fluid to come into physical contact with an employee of a facility specified in subsection (1)(b) of this section.***

(3) Assault in the third degree is a Class D felony.", and by renumbering the subsequent section accordingly.

Floor Amendment No. 4 to the House Committee Substitute to **SB 298**, by Representative Gray:

On page 38, line 10, by deleting "This" and by inserting "The provisions of Sections 1 to 23 and the provisions of Section 26 of this", and

On page 37, between lines 24 and 25, by inserting the following:

"Section 24. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance, except a substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers[~~ or,~~] that is classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class C felony.

(b) For a second or subsequent offense be guilty of a Class B felony.

Section 25. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault in the third degree when the actor:

(a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

1. A state, county, city, or federal peace officer;

2. An employee of a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;

3. An employee of the Department for Social Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job related duties; or

4. A probation and parole officer; or

(b) Being a person confined in a detention facility, or state residential treatment facility or state secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employee of the facility.

(2) ***For the purposes of this section, the terms "throws" and "thrown" shall in addition to their ordinary meanings, include any act whereby a confined person intentionally causes human feces, urine, or any other bodily fluid to come into physical contact with an employee of a facility specified in subsection (1)(b) of this section.***

(3) Assault in the third degree is a Class D felony.", and by renumbering the subsequent section accordingly.", and

On page 37, line 25, by deleting "24" and inserting "26" in lieu thereof, and

On page 38, line 10, by deleting "25" and inserting "27" in lieu thereof.

Floor Amendment No. 5 to the House Committee Substitute to **SB 227**, by Representative Marzian:

On page 43, after line 8, by inserting the following:

"Section 23. KRS 311.601 is amended to read as follows:

(1) The board may adopt reasonable rules and regulations to effectuate and implement the provisions of KRS 311.550 to 311.620, including but not limited to regulations designed to insure the continuing professional competency of present and future licensees. As an adjunct to the power conferred upon the board by this section, the board may require licensees to submit to interrogation as to the nature and extent of their postgraduate medical education and to require licensees found to be deficient in their efforts to keep abreast of new methods and technology, to obtain additional instruction and training therein.

(2) Any continuing medical education requirement which the board may institute by regulation ***may***~~[shall]~~ include the completion of the course described in KRS 214.610(1)***, subject to the discretion of the board***."

Floor Amendment No. 3 to **SB 275**, by Representative Damron:

On page 7, after line 19, by inserting the following:

"Section 2. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no

case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. ***Notwithstanding any other statute, administrative regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or lump sum***~~[The member shall pay the full actuarial cost of the service in the military reserves or the National Guard]~~. Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).".

Floor Amendment No. 1 to **SB 394**, by Representative Worthington:

On page 1, line 1, after "Section 1." by inserting "KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available, and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate that meets the criteria of this subsection, the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county.

(2) A county shall be eligible for the benefits under KRS 154.22-010 to KRS 154.22-070 if the income from the sale of tobacco produced in that county constitutes greater than five percent (5%) of the total personal income in that county for the calendar year 1997. The eligibility of a county based on the provisions of this subsection shall terminate five (5) years from the date the county was made eligible unless the financing agreements are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertifies that county.

(3) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(4)[~~(3)~~]The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(5)[~~(4)~~]With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 2. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

(1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:

(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.

a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(f) The financing agreement shall provide in substance that:

1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Fifteen (15) years from the activation date.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) 1. The approved company may be permitted the following during the term of the financing agreement:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date

for employees wages next succeeding the first date when the approved company collected excess assessments.

(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;

2. Pursue any remedy provided under the financing agreement, including termination thereof; and

3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040*(4)*[~~(3)~~] by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040*(4)*[~~(3)~~] within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

Section 3.".

Floor Amendment No. 2 to **SB 394**, by Representative Worthington:

On page 1, line 1, after "Section 1." by inserting "The Kentucky General Assembly is aware and concerned that with the decline of the tobacco industry, tobacco warehouses throughout the Commonwealth, that were once well maintained and proud centers of economic development activity, have been vacated, fallen into disrepair, depreciated in value, and lacking the vibrant community presence of their past. Many of these tobacco warehouses are located in the heart of our cities and counties and have over time become a hardship for their owners and an eyesore for their communities. It is the intention of the General Assembly to allow and encourage cities and counties throughout the Commonwealth to utilize this excess capacity in their midst and to focus existing and new resources on reinventing the tobacco warehouses into vibrant examples of economic development and community life.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There shall be created and established a tobacco warehouse economic revitalization project with the purpose of assisting cities and counties in their purchase, demolition, redevelopment, and improvement of buildings and property that are found to be no longer economically viable as a tobacco warehouse.

(2) A city or county may, under the tobacco warehouse economic revitalization project, purchase buildings and property that are found to be no longer economically viable as a tobacco warehouse. The city or county may demolish, redevelop, and improve the buildings and property and may resell, lease, or contract for the use of the improved property in an effort to create, revitalize, or expand economic opportunity, residential availability, or commercial enterprises. Based on an appropriate application and as a project may warrant, a city or county that participates in the tobacco warehouse economic revitalization project shall be given consideration for the following economic assistance benefits:

(a) Local Government Economic Assistance Program benefits created in KRS 42.455;

(b) Local Government Economic Development Program benefits created in KRS 42.4588;

(c) Federal block grants under KRS 45.350 to 45.359;

(d) Industrial revenue bonds under KRS 103.200 to 103.285;

(e) Economic development bonds under KRS 154.12-050 to 154.12-100;

(f) Rural economic development assistance benefits, under KRS 154.22-010 to 154.22-070; and

(g) Other state economic development loans, grants, and incentive programs administered by the Kentucky Economic Development Finance Authority under KRS Chapter 154.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Inasmuch as the tobacco warehouse industry has declined and often left tobacco warehouse owners with a tobacco warehouse that is no longer viable as a business and with a single-purpose structure not suitable for other types of businesses, tobacco warehouse owners are encouraged to sell the tobacco warehouse and property upon which it is located to the city or county through the tobacco warehouse revitalization project under Section 2 of this Act, and to reinvest the capitol in a new economic development project under subsections (2) to (4) of this section.

(2) An owner of a tobacco warehouse that sells the tobacco warehouse and property upon which the warehouse is located at a decreased market value and who reinvests capitol in a new economic development project shall be eligible for industrial revenue bonds issued by a city, county, or the authority, under KRS 103.200 to 103.285.

(3) An eligible company as defined in KRS 154.22-010(10) seeking to locate an economic development project as defined in KRS 154.22-010(9) in a development of an owner of a tobacco warehouse under subsection (2) of this section shall be eligible for the rural economic development assistance benefits set forth in KRS 154.22-010 to 154.22-070.

(4) In order for the benefits in subsections (2) and (3) of this section to pertain, the owner of a tobacco warehouse shall reinvest in a new economic development project within the city or county where the tobacco warehouse is located. The owner of a tobacco warehouse shall be eligible for the benefits in subsections (2) and (3) of this section for a building or buildings with a maximum square footage not exceeding that of the original tobacco warehouse.

Section 4. KRS 42.455 is amended to read as follows:

(1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

(a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;

(b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

(c) Public transportation, including mass transit systems, streets, and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, the elderly, and individuals with disabilities;

(h) Industrial and economic development;

(i) Vocational education;

(j) Workforce training; [~~and~~]

(k) Secondary wood industry development*; and*

(l) Promotion of the purposes of the tobacco warehouse economic revitalization project as set forth in Section 2 of this Act.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21)

days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The Revenue Cabinet shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 5. KRS 42.4588 is amended to read as follows:

(1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.

(2) Grants obtained under this program shall be used for:

(a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development;

(b) Industrial development projects if the secretary of the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development; and

(c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development under the provisions of subsection (3) of this section.

(3) The secretary of the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary may also approve privately-owned facilities for transient lodging and recreation where the secretary finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (9) of this section shall be paramount in the case of lodging and recreational facilities.

(4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

(5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.

(6) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.

(7) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).

(8) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development. Award of grants shall be by the Kentucky Economic Development Finance Authority.

(9) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

(a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;

(b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;

(c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;

(d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;

(e) The needs of any industrial firm benefiting from the industrial development project;

(f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;

(g) The amount of capital made available to the facility by lenders and by the industrial firm; and

(h) The economic feasibility of the facility.

(10) For purposes of this section:

(a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; and other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; job development incentive grants; ***and promotion of the purposes of the tobacco warehouse economic revitalization project as set forth in Section 2 of this Act.***

(b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section; and

(c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars ($5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars ($10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Cabinet for Economic Development shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;

2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;

3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;

4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;

5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to

any grant funds disbursement; and

6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met.

(11) Findings by the secretary of the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

(12) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 6. KRS 45.3535 is amended to read as follows:

(1) Under the economic development funding portion of the Commonwealth's Community Development Block Grant program, economic development projects recommended for funding by the Cabinet for Economic Development shall be given consideration.

(2) Ten percent (10%) of the Commonwealth's Community Development Block Grant program shall be set aside to fund applications related to the tobacco warehouse revitalization project under Section 2 of this Act. Applications submitted under the tobacco warehouse revitalization project shall relate to all areas of funding including, but not limited to:

(a) Economic development;

(b) Housing redevelopment;

(c) Public facilities;

(d) Micro-loans;

(e) Day care centers; and

(f) All nontraditional grants and special projects.

(3) All other eligibility and expenditure requirements by the federal law shall be met under the Community Development Block Grant program.

Section 7. KRS 154.12-100 is amended to read as follows:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the Cabinet for Economic Development. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement;

(c) Degree and conditions of project payback; ~~[and]~~

(d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary***; and***

(e) Promotion of the purposes of the tobacco warehouse economic revitalization project as set forth in Section 2 of this Act.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond Oversight Committee, the secretary of the Cabinet for Economic Development shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the Capital Projects and Bond Oversight Committee. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in a branch budget bill. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of

the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the board, and the State Property and Buildings Commission, under the provisions of KRS 56.450.

(5) Following the approval by the board, the project shall be presented by the secretary of the Cabinet for Economic Development or his designee with supporting documentation for review and approval at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810 and at the next regularly scheduled meeting of the State Property and Buildings Commission.

(6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(7) The Cabinet for Economic Development shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the economic development bonds issued during the previous fiscal year and the amounts paid back and the balance still owing with respect to loans made by the Cabinet for Economic Development with proceeds of economic development bonds during the previous five (5) fiscal years.

Section 8. KRS 154.20-170 is amended to read as follows:

Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120***, and business enterprises benefiting from a tobacco warehouse economic revitalization project*** shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.

Section 9. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available, and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate that meets the criteria of this subsection, the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county.

(2) ***A county shall be eligible for the benefits under KRS 154.22-010 to KRS 154.22-070 if the income from the sale of tobacco produced in that county constitutes greater than five percent (5%) of the total personal income in that county for the calendar year 1997. The eligibility of a county based on the provisions of this subsection shall terminate five (5) years from the date the county was made eligible unless the financing agreements are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertifies that county.***

(3) A company shall be eligible for the incentives offered in KRS 154.22-010 to 154.22-070 if that company meets the requirements set forth in subsection (3) and (4) of Section 3 of this Act. An approved company based on the provisions of this subsection shall not be eligible for the incentives offered in KRS 154.22-010 to KRS 154.22-070 unless the financing agreements are entered into by all parties prior to five (5) years following the effective date of this Act.

(4) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(5)[~~(3)~~]The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6)~~[(4)]~~With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 10. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

(1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:

(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.

a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(f) The financing agreement shall provide in substance that:

1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Fifteen (15) years from the activation date.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) 1. The approved company may be permitted the following during the term of the financing agreement:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.

(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;
2. Pursue any remedy provided under the financing agreement, including termination thereof; and
3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040*(5)*[~~(3)~~] by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040*(5)*[~~(3)~~] within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

Section 11.".

Floor Amendment No. 1 to **SCR 4**, by Representative Webb:

On page 2, between lines 2 and 3, by inserting the following, and renumbering the subsequent sections accordingly:

"Section 4. The Department of Juvenile Justice and the Administrative Office of the Courts, in conducting research regarding disproportionate minority confinement, shall adhere to the confidentiality requirements of KRS Chapters 630 and 635, and shall use aggregate level data supplied by law enforcement, courts, and social service agencies.".

Floor Amendment No. 2 to **SB 23**, by Representative Worthington:

On page 1, line 19, by inserting after the "(2)":

"***A county shall be eligible for the benefits under KRS 154.22-010 to KRS 154.22-070 if the income from the sale of tobacco produced in that county constitutes greater than five percent (5%) of the total personal income in that county for the calendar year 1997. The eligibility of a county based on the provisions of this subsection shall terminate five (5) years from the date the county was made eligible unless the financing agreements are entered into by all parties prior to July 1 of the second year following the calendar year in which the authority decertifies that county.***

(3) "; and

On page 2, line 2, by inserting "*(4)*" before "(3)" and by placing brackets around and striking through "(3)"; and

On page 3, line 14, by inserting "*(5)*" before "(4)" and by placing brackets around and striking through "(4)"; and

On page 3, after line 23, by inserting:

"Section 2. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

(1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:

(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.

a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(f) The financing agreement shall provide in substance that:

1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents

in default; and

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Fifteen (15) years from the activation date.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) 1. The approved company may be permitted the following during the term of the financing agreement:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the

employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.

(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;
2. Pursue any remedy provided under the financing agreement, including termination thereof; and
3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(4)***~~[(3)]~~ by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(4)***~~[(3)]~~ within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.".

Floor Amendment No. 3 to **SB 23**, by Representative Worthington:

On page 1, before line 1, by inserting:

"Section 1. The Kentucky General Assembly is aware and concerned that with the decline of the tobacco industry, tobacco warehouses throughout the Commonwealth, that were once well maintained and proud centers of economic development activity, have been vacated, fallen into disrepair, depreciated in value, and lacking the vibrant community presence of their past. Many of these tobacco warehouses are located in the heart of our cities and counties and have over time become a hardship for their owners and an eyesore for their communities. It is the intention of the General Assembly to allow and encourage cities and counties throughout the Commonwealth to utilize this excess capacity in their midst and to focus existing and new resources on reinventing the tobacco warehouses into vibrant examples of economic development and community life.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There shall be created and established a tobacco warehouse economic revitalization project with the purpose of assisting cities and counties in their purchase, demolition, redevelopment, and improvement of buildings and property that are found to be no longer economically viable as a tobacco warehouse.

(2) A city or county may, under the tobacco warehouse economic revitalization project, purchase buildings and property that are found to be no longer economically viable as a tobacco warehouse. The city or county may demolish, redevelop, and improve the buildings and property and may resell, lease, or contract for the use of the improved property in an effort to create, revitalize, or expand economic opportunity, residential availability, or commercial enterprises. Based on an appropriate application and as a project may warrant, a city or county that participates in the tobacco warehouse economic revitalization project shall be given consideration for the following economic assistance benefits:

(a) Local Government Economic Assistance Program benefits created in KRS 42.455;

(b) Local Government Economic Development Program benefits created in KRS 42.4588;

(c) Federal block grants under KRS 45.350 to 45.359;

(d) Industrial revenue bonds under KRS 103.200 to 103.285;

(e) Economic development bonds under KRS 154.12-050 to 154.12-100;

(f) Rural economic development assistance benefits, under KRS 154.22-010 to 154.22-070; and

(g) Other state economic development loans, grants, and incentive programs administered by the Kentucky Economic Development Finance Authority under KRS Chapter 154.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Inasmuch as the tobacco warehouse industry has declined and often left tobacco warehouse owners with a tobacco warehouse that is no longer viable as a business and with a single-purpose structure not suitable for other types of businesses, tobacco warehouse owners are encouraged to sell the tobacco warehouse and property upon which it is located to the city or county through the tobacco warehouse revitalization project under Section 2 of this Act, and to reinvest the capitol in a new economic development project under subsections (2) to (4) of this section.

(2) An owner of a tobacco warehouse that sells the tobacco warehouse and property upon which the warehouse is located at a decreased market value and who reinvests capitol in a new economic development project shall be eligible for industrial revenue bonds issued by a city, county, or the authority, under KRS 103.200 to 103.285.

(3) An eligible company as defined in KRS 154.22-010(10) seeking to locate an economic development project as defined in KRS 154.22-010(9) in a development of an owner of a tobacco warehouse under subsection (2) of this section shall be eligible for the rural economic development assistance benefits set forth in KRS 154.22-010 to 154.22-070.

(4) In order for the benefits in subsections (2) and (3) of this section to pertain, the owner of a tobacco warehouse shall reinvest in a new economic development project within the city or county where the tobacco warehouse is located. The owner of a tobacco warehouse shall be eligible for the benefits in subsections (2) and (3) of this section for a building or buildings with a maximum square footage not exceeding that of the original tobacco warehouse.

Section 4. KRS 42.455 is amended to read as follows:

(1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

(a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;

(b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

(c) Public transportation, including mass transit systems, streets, and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, the elderly, and individuals with disabilities;

(h) Industrial and economic development;

(i) Vocational education;

(j) Workforce training; ~~[and]~~

(k) Secondary wood industry development*; and*

(l) Promotion of the purposes of the tobacco warehouse economic revitalization project as set forth in Section 2 of this Act.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The Revenue Cabinet shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 5. KRS 42.4588 is amended to read as follows:

(1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.

(2) Grants obtained under this program shall be used for:

   (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development;

   (b) Industrial development projects if the secretary of the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development; and

   (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development under the provisions of subsection (3) of this section.

(3) The secretary of the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary may also approve privately-owned facilities for transient lodging and recreation where the secretary finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (9) of this section shall be paramount in the case of lodging and recreational facilities.

(4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

(5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.

(6) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.

(7) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).

(8) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development. Award of grants shall be by the Kentucky Economic Development Finance Authority.

(9) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

(a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;

(b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;

(c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;

(d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;

(e) The needs of any industrial firm benefiting from the industrial development project;

(f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;

(g) The amount of capital made available to the facility by lenders and by the industrial firm; and

(h) The economic feasibility of the facility.

(10) For purposes of this section:

(a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; and other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; job development incentive grants; ***and promotion of the purposes of the tobacco warehouse economic revitalization project as set forth in Section 2 of this Act.***

(b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section; and

(c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant is limited to five thousand dollars ($5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars ($10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Cabinet for Economic Development shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;
2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met.

(11) Findings by the secretary of the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

(12) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 6. KRS 45.3535 is amended to read as follows:

(1) Under the economic development funding portion of the Commonwealth's Community Development Block Grant program, economic development projects recommended for funding by the Cabinet for Economic Development shall be given consideration.

(2) Ten percent (10%) of the Commonwealth's Community Development Block Grant program shall be set aside to fund applications related to the tobacco warehouse revitalization project under Section 2 of this Act. Applications submitted under the tobacco warehouse revitalization project shall relate to all areas of funding including, but not limited to:

- ***(a) Economic development;***
- ***(b) Housing redevelopment;***
- ***(c) Public facilities;***
- ***(d) Micro-loans;***
- ***(e) Day care centers; and***
- ***(f) All nontraditional grants and special projects.***

(3) All other eligibility and expenditure requirements by the federal law shall be met under the Community Development Block Grant program.

Section 7. KRS 154.12-100 is amended to read as follows:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the Cabinet for Economic Development. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

- (a) Potential job creation or job retention;
- (b) Degree of public or private and local involvement;
- (c) Degree and conditions of project payback;~~[and]~~
- (d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary***; and***
- ***(e) Promotion of the purposes of the tobacco warehouse economic revitalization project as set forth in Section 2 of***

this Act.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond Oversight Committee, the secretary of the Cabinet for Economic Development shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the Capital Projects and Bond Oversight Committee. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in a branch budget bill. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the board, and the State Property and Buildings Commission, under the provisions of KRS 56.450.

(5) Following the approval by the board, the project shall be presented by the secretary of the Cabinet for Economic Development or his designee with supporting documentation for review and approval at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810 and at the next regularly scheduled meeting of the State Property and Buildings Commission.

(6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(7) The Cabinet for Economic Development shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the economic development bonds issued during the previous fiscal year and the amounts paid back and the balance still owing with respect to loans made by the Cabinet for Economic Development with proceeds of economic development bonds during the previous five (5) fiscal years.

Section 8. KRS 154.20-170 is amended to read as follows:

Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120***, and business enterprises benefiting from a tobacco warehouse economic revitalization project*** shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority."; and

On page 1, line 1, by deleting "1." after "Section" and inserting in lieu thereof "9."; and

On page 1, line 19, by inserting after the "(2)":

"***A county shall be eligible for the benefits under KRS 154.22-010 to KRS 154.22-070 if the income from the sale of tobacco produced in that county constitutes greater than five percent (5%) of the total personal income in that county for the calendar year 1997. The eligibility of a county based on the provisions of this subsection shall terminate five (5) years from the date the county was made eligible unless the financing agreements are entered into by all parties prior to July 1 of the second year following the calendar year in which the authority decertifies that county.***

(3) A company shall be eligible for the incentives offered in KRS 154.22-010 to 154.22-070 if that company meets the requirements set forth in subsection (3) and (4) of Section 3 of this Act. An approved company based on the provisions of this subsection shall not be eligible for the incentives offered in KRS 154.22-010 to KRS 154.22-070 unless the financing agreements are entered into by all parties prior to five (5) years following the effective date of this Act.

(4) "; and

On page 2, line 2, by inserting "***(5)***" before "(3)" and by placing brackets around and striking through "(3)"; and

On page 3, line 14, by inserting "***(6)***" before "(4)" and by placing brackets around and striking through "(4)"; and

On page 3, after line 23, by inserting:

"Section 10. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

(1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:

(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.

a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(f) The financing agreement shall provide in substance that:

1. It may be assigned by the approved company only upon the prior written consent of the authority following

the adoption of a resolution by the authority to such effect; and

2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Fifteen (15) years from the activation date.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) 1. The approved company may be permitted the following during the term of the financing agreement:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal

personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.

(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;

2. Pursue any remedy provided under the financing agreement, including termination thereof; and

3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(5)***[~~(3)~~] by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(5)***[~~(3)~~] within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.".

Floor Amendment No. 1 to **SB 119**, by Representative Wilkey:

On page 2, after line 2, insert:

"Section 2. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death ***and loss of decedent's enjoyment of life*** from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased.

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the

following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution."

Floor Amendment No. 2 Title to **SB 119**, by Representative Wilkey:

By amending the title to read as follows: "AN ACT relating to personal injuries."

Floor Amendment No. 2 to **SB 349**, by Representative DeWeese:

On page 17, line 26, by deleting "***or***"; and

On page 18, line 1, by inserting after "***prisoners***" the following:

"***; or***

(d) Probation and parole officers".

Floor Amendment No. 1 to the House Committee Substitute to **SB 409**, by Representative Palmer:

On page 10, after line 1 by inserting "SECTION 14. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The authority may enter into a contract with the Kentucky Geological Survey for the purpose of continuing and expanding the identification and study of the water resource potential of underground coal mines and high yield water wells. The authority may fund the study from the 2020 water service account."; and

by renumbering the sections thereafter accordingly.

Floor Amendment No. 2 to the House Committee Substitute to **SB 409**, by Representative Palmer:

On page 18, line 21, after "***secretaries***" by inserting "***, the executive director,***".

Floor Amendment No. 7 to the House Committee Substitute No. 2 to **SB 290**, by Representative Bather:

On page 12, line 4, after "***(i)***" by deleting all the text on the line thereafter; and

on line 5, by deleting "***release,***" and by capitalizing "***mistakes***".

Floor Amendment No. 3 to **SB 349**, by Representative Allen:

On page 2, lines 21 and 22 by deleting the phrase "***twenty-seven thousand five hundred dollars ($27,500)***" and inserting "***forty-five thousand dollars ($45,000)***" in lieu thereof.

On page 2, line 23, after "***6A.***" by inserting the following language: "***The assumed salary for legislators in this subsection shall be adjusted annually by the second Friday in February of every year by the Department for Local Government beginning in the year 2001, to reflect changes in the current purchasing power of the dollar. The maximum permissible compensation for legislators under this subsection shall be based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W.2d 139 (1962).***"

On page 3, lines 15 and 16, by deleting "***twenty-seven thousand five hundred dollars ($27,500)***" and inserting "***forty-five***

thousand dollars ($45,000)" in lieu thereof.

On page 3, line 16, before "***The five (5) years***" by inserting the following language: "***The assumed salary for legislators in this subsection shall be adjusted annually by the second Friday in February of every year by the Department for Local Government beginning in the year 2001, to reflect changes in the current purchasing power of the dollar. The maximum permissible compensation for legislators under this subsection shall be based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W.2d 139 (1962).***"

On page 83, lines 18 and 19, by bracketing and striking through "twenty-seven thousand five hundred dollars ($27,500)" and by inserting "***forty-five thousand dollars ($45,000)***" before "twenty-seven".

On page 83, line 20, after "Chapter 6." by inserting the following language: "***The assumed salary for legislators in this subsection shall be adjusted annually by the second Friday in February of every year by the Department for Local Government beginning in the year 2001, to reflect changes in the current purchasing power of the dollar. The maximum permissible compensation for legislators under this subsection shall be based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W.2d 139 (1962).***"

On page 84, line 6, after the first use of the word "be" by inserting "***forty-five thousand dollars ($45,000). The assumed salary for legislators in this subsection shall be adjusted annually by the second Friday in February of every year by the Department for Local Government beginning in the year 2001, to reflect changes in the current purchasing power of the dollar. The maximum permissible compensation for legislators under this subsection shall be based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W.2d 139 (1962)***" and by bracketing and striking through "twenty-seven thousand five hundred dollars ($27,500)".

On page 127, after line 8, insert the following sections.

"Section 56. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for thirty (30) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS

21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System***, unless that member has chosen to opt out of the Kentucky Employees Retirement System in writing within sixty (60) days of the effective date of this Act, or within sixty (60) days of the date the member ceases to contribute to the plan as provided in KRS 21.360, whichever occurs later***.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system. The final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

Section 57. KRS 6.520 is amended to read as follows:

(1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be ***one-twelfth (1/12) of one hundred percent (100%) of the annual assumed salary for legislators set forth in subsection (13) of Section 48 of this Act.***~~[two thousand two hundred ninety-one dollars sixty-six cents ($2,291.66)]~~.

(2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.

(3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement.

(4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

SECTION 58. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

When a legislator, including a legislator who has ceased to contribute to the legislative retirement system under KRS 21.360, is contributing to another retirement system in accordance with Section 56 of this Act and makes application for retirement benefits in accordance with the provisions of the retirement system to which he or she has contributed, the retirement system shall base the determination of final compensation, including the average monthly creditable compensation for purposes of determining retirement benefits, on the higher of the annual assumed salary for legislators under subsection (13) of Section 48 of this Act or the actual creditable compensation in the retirement system.

Section 59. The amendment that increases "creditable compensation" for legislators to an assumed salary of forty-five thousand dollars ($45,000) set forth in subsection (13) of Section 48 of this Act, and increases "final compensation" for legislators to forty-five thousand dollars ($45,000) set forth in subsection (14) of Section 48 of this Act shall be applied to calendar years beginning after December 31, 1999; and any other provision of law to the contrary notwithstanding, including, but not limited to, KRS 21.525, 6.525, and 61.565, the funding of retirement benefits for the increase in "final compensation" outlined in subsection (13) of Section 48 of this Act and subsection (14) Section 48 of this Act shall be provided from existing funds in the system's respective retirement account to which the increases in benefits applies for the biennium beginning July 1, 2000, and ending June 30, 2002.

Floor Amendment No. 4 to **SB 23**, by Representative Hoover:

On page 3, after line 23, by inserting:

"Section 2. KRS 154.22-100 is amended to read as follows:

(1) If an approved company's financing agreement in effect prior to July 15, 1996, stipulates that the approved company elects to impose a six percent (6%) job development assessment fee pursuant to KRS 154.22-070 as in effect prior to July 15, 1996, the approved company, subject to provisions of subsection (2) of this section, may elect to change the job development fee rate from six percent (6%) as prescribed in KRS 154.22-070 as in effect prior to July 15, 1996, to four percent (4%) as set forth in KRS 154.22-070.

(2) An approved company may elect to reduce the job assessment fee rate as prescribed in subsection (1) of this section if the financing agreement respecting the approved company's approved project is amended upon written approval of all parties thereto, ~~[provided, however, the approval is granted by June 30, 1997,]~~ and the approved company attests in writing to the satisfaction of the authority that the approved company has not entered into any other agreement by which the company has pledged the proceeds of a six percent (6%) job development assessment fee as partial or full payment of any debt or other obligation to any other party."

Floor Amendment No. 5 to **SB 23**, by Representative Hoover:

On page 3, after line 23, by inserting:

"Section 2. KRS 154.22-100 is amended to read as follows:

(1) If an approved company's financing agreement in effect prior to July 15, 1996, stipulates that the approved company elects to impose a six percent (6%) job development assessment fee pursuant to KRS 154.22-070 as in effect prior to July 15, 1996, the approved company, subject to provisions of subsection (2) of this section, may elect to change the job

development fee rate from six percent (6%) as prescribed in KRS 154.22-070 as in effect prior to July 15, 1996, to four percent (4%) as set forth in KRS 154.22-070.

(2) An approved company may elect to reduce the job assessment fee rate as prescribed in subsection (1) of this section if the financing agreement respecting the approved company's approved project is amended upon written approval of all parties thereto, ~~[provided, however, the approval is granted by June 30, 1997,]~~ and the approved company attests in writing to the satisfaction of the authority that the approved company has not entered into any other agreement by which the company has pledged the proceeds of a six percent (6%) job development assessment fee as partial or full payment of any debt or other obligation to any other party.

Section 3. Whereas it is increasingly difficult for businesses within the Commonwealth to obtain the required number of employees at a competitive wage, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 6 Title to **SB 23**, by Representative Hoover:

To amend the title to read as follows: " AN ACT relating to economic development and declaring an emergency."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names withdrawn as co-sponsors of a Legislative Citation and Resolution under rules previously suspended:

Legislative Citation No. 145: Representative L. Clark

HR 181: Representative Geveden

Announcements

The following meetings were announced:

Elections, Constitutional Amendments, and Intergovernmental Affairs, March 27, 2000, upon adjournment, House Chamber

Pro Life Caucus, March 27, 2000, upon adjournment, Room 316

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 28, 2000.

The motion that the House adjourn until 10:00 a.m., March 28, 2000, was adopted by voice vote.

MARCH 28, 2000

FIFTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastor George Moore, Quinn Chapel AME Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 27, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

HB 178, HB 296, HB 390, HB 443, HB 483, HB 543, HB 616, HB 650, HB 737, HB 765, HB 768, HB 777, HB 870, HB 884, HJR 128, and **HJR 131** delivered to the Senate and signed by the President. Delivered to the Governor on March 24, 2000 at 3:24 p.m.

HB 258, HB 324, HB 525, HB 571, HB 668, and **HCR 82** delivered to the Senate and signed by the President. Delivered to the Governor on March 27, 2000, at 4:22 p.m.

Representative Graham moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Graham moved the adoption of the following **HR 177**:

HR 177, A RESOLUTION recognizing Lindsey K. Marks as the Miss Capital City representative in the 2000 Miss Kentucky Scholarship Pageant.

WHEREAS, in recognition of her talent, academic record, poise, and community service, Lindsey K. Marks was chosen Miss Capital City at the Miss Kentucky Scholarship Pageant preliminary competition held in Frankfort, Kentucky, on March 11, 2000; and

WHEREAS, by virtue of her position as Miss Capital City, she will represent the capital city of Frankfort and Franklin County in the Miss Kentucky Scholarship Pageant in June, 2000; and

WHEREAS, were Lindsey to win the Miss Kentucky competition, she would represent the capital city and the Commonwealth of Kentucky in the Miss America Pageant in Atlantic City, New Jersey, in October, 2000; and

WHEREAS, her position as Miss Capital City provides her with the opportunity to advance the cause and programs of her platform, family literacy and media literacy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body congratulates Lindsey K. Marks as the Miss Capital City representative in the 2000 Miss Kentucky Scholarship Pageant, and we salute her for her accomplishments and for her efforts on behalf of family literacy and media literacy.

Section 2. This honorable body is proud to recognize Lindsey K. Marks, and wishes to her success in all future endeavors.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Gippy Graham for presentation to Lindsey K. Marks.

There being no objection **HR 177** was adopted.

Senate Message

Announcing passage of **HB 221, HB 439, HB 542, HB 555, HB 564, HB 588, HB 593, HB 660, HB 675, HB 740, HB 792, HB 852, HB 856, HB 881, HB 886, HB 910, HB 946, HCR 8, HCR 11, HCR 22, HCR 114,** and **HJR 141**. (Time: 10:10 a.m.)

Message in regard to **HB 608**: The Senate has passed **HB 608** by way of Senate Committee Substitute and Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 676**: The Senate has passed **HB 676** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 911**: The Senate has passed **HB 911** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

State Government: **HR 185, HR 187**

House Floor: **HR 184, HR 186, HR 188, HR 189**

Report of Committees

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **SB 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 70, AN ACT proposing an amendment to Sections 201, 209, and 218 of the Constitution of Kentucky relating to abolition of the Railroad Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 201 of the Constitution of Kentucky be amended to read as follows:

No railroad, telegraph, telephone, bridge or common carrier company shall consolidate its capital stock, franchises or property, or pool its earnings, in whole or in part, with any other railroad, telegraph, telephone, bridge or common carrier company owning a parallel or competing line or structure, or acquire by purchase, lease or otherwise, any parallel or competing line or structure, or operate the same; nor shall any railroad company or other common carrier combine or make any contract with the owners of any vessel that leaves or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying: Provided, however, That telephone companies may acquire by purchase or lease, or otherwise, and operate, parallel or competing exchanges, lines and structures, and the property of other telephone companies, if the~~[Railroad Commission or such other]~~ state ***agency***~~[commission]~~ as may have jurisdiction over such matters shall first consent thereto, and if, further, each municipality wherein such property or any part thereof is located shall also first consent thereto as to the property within its limits, but under any such acquisition and operation toll line connections with the property so acquired shall be continued and maintained under an agreement between the purchasing company and the toll line companies then furnishing such service, and in the event they are unable to agree as to the terms of such an agreement the~~[Railroad Commission or such other]~~ state ***agency***~~[commission]~~ as may have jurisdiction over such matters, shall fix the term of such agreement.

Section 2. It is proposed that Section 218 of the Constitution of Kentucky be amended to read as follows:

It shall be unlawful for any person or corporation, owning or operating a railroad in this State, or any common carrier, to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of property of like kind, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, or person or corporation, owning or operating a railroad in this State, to receive as great compensation for a shorter as for a longer distance: Provided, That upon application to the ***state agency as may have jurisdiction over such matters***~~[Railroad Commission]~~, such common carrier, or person or corporation owning or operating a railroad in this State, may in special cases, after investigation by the ***appropriate state agency***~~[commission]~~, be authorized to charge less for longer than for shorter distances for the transportation of passengers, or property; and the ***appropriate state agency***~~[commission]~~ may, from time to time, prescribe the extent to which such common carrier, or person or corporation, owning or operating a railroad in this State, may be relieved from the operation of this section.

Section 3. It is proposed that the present Constitution of Kentucky be amended by repealing the following section.

209 Railroad Commission -- Election, term, and qualifications of Commissioners -- Commissioners' districts -- Powers

and duties -- Removal -- Vacancies.

Section 4. It is further proposed as a part of this amendment and as a schedule of transitional provisions, for the purposes of this amendment, and any other provision of the Constitution of Kentucky notwithstanding, that:

(1) Any Railroad Commissioner serving in office at the time of the ratification of this amendment shall continue in office until the expiration of his current term.

(2) Upon the proposed amendment's approval by the voters of the Commonwealth, the statutory duties of the Railroad Commission shall continue in effect until the effective date of legislation enacted by the General Assembly to implement this amendment.

Section 5. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 328, HB 385, HB 475, HB 789,** and **HB 950** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:30 a.m.)

Representative Stumbo moved that **SJR 107, SB 290,** and **SB 70** be placed in the Orders of the Day. Agreed.

Orders of the Day

SB 49, with House Committee Substitute, House Committee Amendment, and House Committee Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of the House Committee Substitute to **SB 49**. Agreed.

Representative R. Adams moved that **SB 49**, by way of House Committee Substitute, be passed.

Representative Thomas moved the adoption of House Floor Amendment No. 3 to the House Committee Substitute to **SB 49**.

Representative Anderson inquired if House Floor Amendment No. 3 to the House Committee Substitute to **SB 49** was germane.

The Speaker ruled that House Floor Amendment No. 3 to the House Committee Substitute to **SB 49** was germane.

Representative Anderson inquired if House Floor Amendment No. 3 to the House Committee Substitute to **SB 49** was a piggyback.

The Speaker ruled that House Floor Amendment No. 3 to the House Committee Substitute to **SB 49** was a piggyback.

Representative Worthington inquired if pursuant to Section 47 of the Kentucky Constitution this bill must originate in the House.

The Speaker ruled that Section 47 of the Kentucky Constitution does require that bills raising revenue must originate in the House, but the House Committee Substitute adopted by the House was House generated, and therefor, is considered as originating in the House.

Representative Stumbo moved that **SB 49** be laid on the Clerk's Desk. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 75, SB 115, SB 134, SB 194, SB 197, SB 212, SB 216, SB 316, SB 326, SB 336, SB 372, SB 379,** and **SJR 110** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:10 a.m.)

Orders of the Day (Continued)

SB 170, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the House Committee Substitute to **SB 170**. Agreed.

Representative Damron moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 170**. Agreed.

Representative Damron moved the adoption of House Floor Amendment No. 4 to the House Committee Substitute to **SB 170**. Agreed.

Representative Damron moved the adoption of House Floor Amendment No. 5 to the House Committee Substitute to **SB 170**. Agreed.

Representative Damron moved that **SB 170**, by way of House Committee Substitute as amended, be passed.

Representative Ford moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 170**. Agreed.

Representative Damron moved that **SB 170**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 91**, **Nays 4**. (See March 28, 2000 roll call on **SB 170** - Appendix.)

SB 170, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **SB 170**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 166 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HR 166** be adopted.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See March 28, 2000 roll call on **HR 166** - Appendix.)

HR 166 was adopted.

Representative Webb moved that the vote by which **HR 166** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 170 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HR 170** be adopted.

On the roll call the vote was: **Yeas 91**, **Nays 0**. (See March 28, 2000 roll call on **HR 170** - Appendix.)

HR 170 was adopted.

Representative Burch moved that the vote by which **HR 170** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HR 169** be placed in the Orders of the Day. Agreed.

HB 287, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 287** is as follows:

On page 3, after line 6, by inserting the following:

"Section 3. KRS 154.45-010 is amended to read as follows:

As used in KRS 154.45-020 to 154.45-110, unless the context otherwise requires:

(1) "Authority" means the Enterprise Zone Authority of Kentucky;

(2) ***"Employee" means a person who works twenty (20) hours or more per week and is employed by a business located in an enterprise zone and includes a qualified seasonal employee. For purposes of determining whether a qualified business maintains the percentage of targeted workforce employees required by KRS 154.45-010(8) for the entire time it is certified as a qualified business, a qualified seasonal employee shall be deemed to be employed for the entire***

calendar year;

(3)[~~(2)~~]"Enterprise zone" means an area designated by the authority to be eligible for the benefits of KRS 154.45-020 to 154.45-110;

(4)[~~(3)~~]"Establishment" means a single physical location where business is conducted or where services or industrial operations are performed;

(5)[~~(4)~~]"Existing business" means a person, corporation, or other entity engaged in the active conduct of a trade or business at a location within the enterprise zone prior to the date the authority designated the area as an enterprise zone;

(6)[~~(5)~~]"Local government" means a city, county, urban-county government, or charter county government;

(7)[~~(6)~~]"New business" means a person, corporation, or other entity who was not engaged in the active conduct of a trade or business in the enterprise zone prior to the date the authority designated the area as an enterprise zone, and who becomes engaged in the active conduct of a trade or business within the enterprise zone after the date the authority designated the area as an enterprise zone;

(8)[~~(7)~~]"Qualified business" means an existing business or new business that has been certified by the authority to have at least fifty percent (50%) of its employees performing substantially all of their services within an enterprise zone and meeting one (1) of the following criteria:

(a) With a new business employing at least twenty-five percent (25%) of the business's employees from the targeted workforce; or

(b) With an existing business creating new activity within the enterprise zone of not less than a twenty percent (20%) increase in the number of employees or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business. Businesses that are certified based upon an increase in employees shall employ at least twenty-five percent (25%) of the new employees from the targeted workforce.

(9)[~~(8)~~]"Qualified employee" means an employee of a qualified business; [~~and~~]

(10) "Qualified seasonal employee" means a seasonal employee employed by a seasonal business for at least sixty (60) days during the calendar year;

(11) Seasonal business" means a business with respect to which seasonal employees constitute at least eighty percent (80%) of the total number of employees of the business during the calendar year. For purposes of this definition, a person shall be treated as an employee only if the person is employed by the business for at least sixty (60) days during the calendar year;

(12) "Seasonal employee" means a person who is employed by a qualified business during certain seasons or during part of the calendar year; and

(13)[~~(9)~~] "Targeted workforce" means Kentucky residents:

(a) Who reside within an enterprise zone; or

(b) Who have been unemployed for at least ninety (90) days or who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with a qualified business.

(c) For the purpose of this subsection, "Kentucky resident" means a person who has resided in the Commonwealth for at least ninety (90) days.

Section 4. Whereas it is increasingly difficult to obtain the necessary number of qualified employees to perform needed services, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

The Senate Committee Amendment No. 2 Title to **HB 287** is as follows:

Change the title to read: "AN ACT relating to economic development and declaring an emergency."

Representative A. Arnold moved that the House concur in Senate Committee Amendment No. 1 to **HB 287**.

Representative Ratliff inquired if Senate Committee Amendment No. 1 to **HB 287** was germane.

The Speaker ruled that Senate Committee Amendment No. 1 to **HB 287** was germane.

Representative A. Arnold moved that the House concur in Senate Committee Amendment No. 1 to **HB 287**.

The motion that the House concur in the Senate Committee Amendment No. 1 to **HB 287** was defeated.

The House refused to concur in the Senate Committee Amendment No. 1 to **HB 287**.

Representative A. Arnold moved that the House refuse to concur in the Senate Committee Amendment No. 2 Title to **HB 287**. Agreed.

HB 360, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 360** is as follows:

HB 360, AN ACT relating to the police and firefighters' retirement fund in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.859 is amended to read as follows:

(1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 95.851(13), for each year of total service up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. If the calculated benefit for a member is less than four thousand eight hundred dollars ($4,800) per year, the board may increase the annual benefit to a minimum of four thousand eight hundred dollars ($4,800) if the increase can be supported on an actuarially-sound basis by the fund.

(2) Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars ($10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars ($170) per month. No surviving widow of a retiree shall receive a pension of less than one hundred and fifty dollars ($150) per month. The board may increase the minimum benefit to no more than ***five hundred dollars ($500)***~~[four hundred dollars ($400)]~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the surviving widows' minimum shall be increased by a like percentage, but the pension increase shall not exceed five percent (5%).

(3) Within six (6) months after the performance of the actuarial study required by KRS 95.872(6), the rate of retirement annuity of each annuitant shall be increased annually by an amount determined by the study to reflect so much of the annual increase in the cost of living of the annuitant as may be supported on an actuarially sound basis by the fund. So long as the same is published, such studies shall rely on the ***percentage increase in the annual average of the consumer price index for all items for the most recent calendar year as published by***~~["All Items Index" of]~~ the United States Department of Labor's ***Bureau of Labor Statistics, not to***~~[Consumer Price Indexes, but no increase in the cost of living shall]~~ exceed five percent (5%)~~[or the actual increase in the cost of living, whichever is lower]~~. ***In any year that the percentage increase in the annual average of the consumer price index for all items is less than five percent (5%), the board may set the annual increase at a rate higher than the increase of the consumer price index but not in excess of five percent (5%), if the board determines that the increase can be supported on an actuarially-sound basis by the fund.*** The increases shall be payable to all members of the fund on the effective date of the increases, and all increases granted on July 15, 1990, or thereafter shall be compounded.

(4) A surviving spouse who does not receive a pension increase pursuant to subsection (2) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in subsection (3) of this section shall receive the same increase an annuitant receives pursuant to subsection (3) of this section, not to exceed a total of five percent (5%).

Section 2. KRS 95.860 is amended to read as follows:

(1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary or annuity, as the case may be, to an annuity equal to fifty percent (50%) of the member's last rate of salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3). This annuity shall be payable until she dies or remarries. No surviving widow shall receive an annuity of less than one hundred and fifty dollars ($150) per month. The board may increase the minimum benefit to no more than ***five hundred dollars ($500)***~~[four hundred dollars ($400)]~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, provided the increase shall not exceed five percent (5%). In addition, if minor children, under age eighteen (18), survive the member, the widow shall receive twenty-five percent (25%) of the member's last rate of salary until the last child attains age eighteen (18). The combined payments to a widow and minor children, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3), shall not exceed seventy-five percent (75%) of his final rate of salary.

(2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen (18) exist, the children shall be entitled to the benefits provided in KRS 95.861(3).

(3) If neither a widow nor minor children, eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

(4) If a widow would receive from a combination of:

(a) Survivor benefits pursuant to this section, excluding benefits for minor children or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3); and

(b) Workers' compensation benefits, excluding dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of the deceased member's last rate of salary,

then the pension system survivor benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The survivor benefit shall not be reduced, however, below an amount equal to two and one-half percent (2.5%) of average salary for each year of the deceased member's service. Any reduction in the survivor payment shall be based upon workers' compensation benefits applicable at the time the survivor payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the surviving spouse shall inform the board, and the board shall increase the survivor's benefit by the amount of the reductions, but not by more than an amount which would increase the survivor's benefit to fifty percent (50%) of last rate of salary, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3). The board of trustees may pay estimated benefits to a surviving spouse, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the spouse's actual benefits shall be determined and the account corrected retroactive to the effective date of the survivor benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the survivor benefit on a monthly rather than a lump-sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the survivor. The board may request the assistance of the general manager of Kentucky retirement systems to calculate the reduction in survivor benefits when lump-sum payments are involved, and the general manager shall provide such assistance upon request.

(5) A surviving child or parent receiving benefits pursuant to this section shall receive the same cost-of-living increase granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

Section 3. KRS 95.861 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, plus the total increase the retired member may have received in his retirement annuity pursuant to KRS 95.859(3), subject to a maximum payment, excluding cost-of-living increases of the member or the widow, to the widow of fifty percent (50%). If the member has had at least ten (10) years of total service, the widow shall receive an annuity of no less than one hundred and fifty dollars ($150) per month. The board may increase the minimum benefit to not more than ***five hundred dollars ($500)***~~[four hundred dollars ($400)]~~ per month if the increase can be supported on an actuarially-sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, but the increase shall not exceed five percent (5%). Payment of the annuity shall be subject to the following conditions:

(a) The widow had been married to the member at least one (1) year prior to his death;

(b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18), (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member) payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children;

(c) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18).

(2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment, excluding cost-of-living increases or increases the retired member may have received in his annuity pursuant to KRS 95.859(3), to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13).

(3) If the pensioner is not survived by a widow and there are minor children the following benefits shall be paid:

(a) One (1) minor child, fifty percent (50%) of the average salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3);

(b) Two (2) minor children, fifteen percent (15%) of the average salary additional;

(c) Three (3) or more minor children, ten percent (10%) of the average salary additional, subject to a maximum combined payment, excluding cost-of-living increases of the member or the minor children, of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13). The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.

(4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least one (1) year before death.

(5) A surviving child receiving benefits pursuant to this section shall receive the same cost-of-living increases granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost of living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

Section 4. KRS 95.862 is amended to read as follows:

(1) In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to seventy percent (70%) of his last rate of salary. If the calculated monthly benefit is less than ***five hundred dollars ($500)***[~~four hundred dollars ($400)~~] per month, the board may increase the monthly benefit to a minimum of ***five hundred dollars ($500)***[~~four hundred dollars ($400)~~] monthly if the increase can be supported on an actuarially-sound basis by the fund. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars ($10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars ($170) per month. Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under KRS 95.860.

(2) If the member retired for total and permanent occupational disability would receive from a combination of (a) pension disability payments pursuant to subsection (1) of this section, and (b) workers' compensation payments, excluding spouse or dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of his last rate of salary, then the pension system benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The benefit shall not be reduced, however, below an amount equal to two and one-half percent (2-1/2%) of average salary for each year of the member's service. Any reduction in the payment shall be based upon workers' compensation benefits applicable at the time the payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the retiree shall inform the board, and the board shall increase the benefit by the amount of the reductions, but not by more than an amount which would increase the benefit to seventy percent (70%) of the last rate of salary, excluding cost-of-living increases. The board of trustees may pay estimated benefits to a retiree, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the actual benefits shall be determined and the account corrected retroactive to the effective date of the benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the disability retirement annuity on a monthly rather than a lump sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the retired member. The board may request the assistance of the general manager of Kentucky Retirement Systems to calculate the reduction in the retirement benefit when lump sum payments are involved, and the general manager shall provide such assistance upon request.

(3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

Section 5. KRS 95.863 is amended to read as follows:

(1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least ten (10) years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent (2-1/2%) of average salary, as defined in KRS 95.851(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary, and a maximum payment, excluding cost-of-living increases, of fifty percent (50%) of average salary. If the calculated monthly benefit is less than ***five hundred dollars ($500)***[~~four hundred dollars ($400)~~] per month, the board may increase the monthly benefit to a minimum of ***five hundred dollars ($500)***[~~four hundred dollars ($400)~~] monthly if the increase can be supported on an actuarially-sound basis by the fund. Payment of this annuity shall be made during disability of the member. Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars ($10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars ($170) per month. Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 95.861.

(2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from the date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of

disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

(3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

Section 6. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty as defined in KRS 16.505(19), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's

spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary. The percentage of the monthly contribution paid for the spouse and dependents ***of a recipient who was in a hazardous position*** shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section***, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation***.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

The Senate Committee Amendment No. 1 Title to **HB 360** is as follows:

by amending the title to read as follows: "AN ACT relating to retirement."

Representative Treesh moved that the House concur in the Senate Committee Substitute to **HB 360**. Agreed.

Representative Treesh moved that **HB 360**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 28, 2000 roll call on **HB 360** - Appendix.)

HB 360, by way of Senate Committee Substitute, was passed.

Representative Treesh moved that the House concur in Senate Committee Amendment No. 1 Title to **HB 360**. Agreed; and the title was agreed to.

Representative Treesh moved that the vote by which **HB 360**, by way of Senate Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 438, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 438** is as follows:

On page 10, line 26, by inserting after "*(1)*" "***On an annual basis, the Auditor of Public Accounts shall issue audit standards to be followed in the audits authorized by subsection (5) of Section 2 and subsection (5) of Section 4 of this Act. These audit standards shall supplement generally accepted audit standards.*** " and

On page 10, line 26, after "***Accounts***" by deleting "***shall***" and inserting in lieu thereof "***may***"; and

On page 11, line 1, by inserting after "." by inserting "***Any costs associated with the review or subsequent audit by the Auditor of Public Accounts shall be borne by the commission.***".

Representative Siler moved that the House concur in Senate Committee Amendment No. 1 to **HB 438**. Agreed.

Representative Siler moved that **HB 438**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 89, Nays 1**. (See March 28, 1998 roll call on **HB 438** - Appendix.)

HB 438, as amended by the Senate, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 438**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 643, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 643** is as follows:

On page 3, beginning on line 26, and ending on page 4, line 2, by removing the brackets and strikethroughs; and

On page 3, line 27, after "June 30," by inserting "***2002***" and bracketing and striking through "2000".

Representative Moberly moved that the House concur in Senate Committee Amendment No. 1 to **HB 643**. Agreed.

Representative Moberly moved that **HB 643**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 28, 1998 roll call on **HB 643** - Appendix.)

HB 643, as amended by the Senate, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 643**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HR 185** be placed in the Orders of the Day. Agreed.

HB 118, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 118** is as follows:

HB 118, AN ACT relating to special license plates for independent colleges and universities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 186.186 TO 186.1867 IS CREATED TO READ AS FOLLOWS:

(1) Any person who complies with the provisions of KRS 186.186 may apply for an independent collegiate license plate for any independent college or university licensed by the Council on Postsecondary Education.

(2) An independent collegiate license plate shall be the color and design selected by the Association of Independent Kentucky Colleges and Universities and approved by the Transportation Cabinet. The name "Kentucky" and the annual renewal decal shall appear on the plate, along with the logo of the Kentucky Association of Independent Colleges and Universities and a decal bearing the name of the college or university selected by the person purchasing the plate. The Transportation Cabinet may use any combination of numerals or letters as needed in the numbering of the license plate.

(3) In addition to the fees required by KRS 186.186, a person applying for an independent college license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230. When applying for an annual renewal registration decal, a person with an independent college license plate shall pay a ten dollar ($10) fee, in addition to the renewal fee established in KRS 186.186(2). The additional fees under this subsection shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230.

(4) The ten dollar ($10) initial fee and the ten dollar ($10) renewal fee collected under subsection (3) of this section shall be forwarded annually by the Transportation Cabinet to the Kentucky Association of Independent Colleges and Universities for distribution to the general scholarship funds of the Association's members.

Section 2. KRS 186.185 is amended to read as follows:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines, and U-Drive-Its, may in addition to registration under KRS 186.050(1) or (3)(a) obtain a five (5) year collegiate license plate. Application for a collegiate license plate shall be taken by the county clerk and transmitted to the Transportation Cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. The application shall include the payment of a twenty-five dollar ($25) registration fee.~~[In addition, for the use of the university name or logo, a five dollar ($5) fee shall be collected and paid to the general scholarship fund of the university whose name will be borne on the plate.]~~ The application~~[and appropriate]~~ fee shall be immediately forwarded to the cabinet. Collegiate license plates issued under this section shall expire December 31 each year.

(2) Collegiate license plates shall be developed for each university in the state university system, except that a minimum of eighteen hundred (1,800) requests for any university shall be received before the cabinet shall be required to print a collegiate license plate for that university. License plates shall be the color and design approved by the cabinet as appropriate for each university in the state system. In addition to letters identifying the university, the name "Kentucky" and the expiration date of the plate, the cabinet may use any other combination of letters or numerals needed in the design of the plate, or the application for a collegiate license plate may be combined with a request that the plate be a personalized plate.

(3) The cabinet shall send the collegiate plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk shall issue the collegiate plate and receive ***twenty-five dollars ($25)***~~[fourteen dollars and fifty cents ($14.50)]~~, of which three dollars ($3) shall constitute the clerk's fee***, twelve dollars ($12) shall constitute the cabinet's fee, and ten dollars ($10) shall be collected and paid to the general scholarship fund of the university whose name will be borne on the plate***~~[and eleven dollars and fifty cents ($11.50) shall constitute the cabinet's fee]~~. Annually thereafter, upon application as provided, and upon payment of ***twenty-five dollars ($25)***~~[fourteen dollars fifty cents ($14.50)]~~, three dollars ($3) of which shall constitute the clerk's fee, ***twelve dollars ($12) shall constitute the cabinet's fee, and ten dollars ($10) shall be collected and paid to the general scholarship fund of the university whose name will be borne on the plate,*** the clerk shall issue a decal to renew the vehicles registration.

(4) (a) Upon the sale or transfer of the motor vehicle bearing the collegiate license plate, the owner shall remove it and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration. This vehicle may then be transferred as provided by KRS Chapters 186 and 186A.

(b) When the collegiate plate has been presented to the clerk, he shall reissue it upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned by the same person purchasing the collegiate plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who shall forward the license to Frankfort.

(5) If a collegiate plate deteriorates, if he has not transferred the vehicle during the current license period, the owner may obtain a regular license plate free of charge.

(6) The secretary of transportation may promulgate administrative regulations necessary to further the purposes of this section.

The Senate Committee Amendment No. 1 Title to **HB 118** is as follows:

On page 1, amend the title to read as follows:

"AN ACT relating to special license plates for colleges and universities.".

Representative Hoffman moved that the House concur in Senate Committee Substitute to **HB 118**. Agreed.

Representative Hoffman moved that **HB 118**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 28, 2000 roll call on **HB 118** - Appendix.)

HB 118, by way of Senate Committee Substitute, was passed.

Representative Hoffman moved that the House concur in Senate Committee Amendment No. 1 Title to **HB 118**. Agreed; and the title was agreed to.

Representative Hoffman moved that the vote by which **HB 118**, by way of Senate Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 328, HB 385, HB 475, HB 789, and **HB 950** delivered to the Senate and signed by the President. Delivered to the Governor on March 28, 2000, at 11:26 a.m.

Orders of the Day (Continued)

HB 136, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 136** is as follows:

On page 1, on lines 17, 18, and 19, delete "***The cabinet and the Administrative Office of the Courts shall promulgate administrative regulations prescribing procedures for requesting the criminal records checks.***" and insert in lieu thereof "***Any request for a criminal records check of a volunteer under this subsection shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts.***"

Representative Draud moved that the House concur in Senate Committee Amendment No. 1 to **HB 136**. Agreed.

Representative Draud moved that **HB 136**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 85, Nays 3**. (See March 28, 1998 roll call on **HB 136** - Appendix.)

HB 136, as amended by the Senate, was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 136**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 161** is as follows:

On page 3, line 19, after "***of***" by inserting "***qualified***";

On page 10, by deleting lines 9 through 27 in their entirety;
On page 11, by deleting lines 1 through 27 in their entirety;
On page 12, by deleting lines 1 through 27 in their entirety;
On page 13, by deleting lines 1 through 27 in their entirety;
On page 14, by deleting lines 1 through 2 in their entirety;
And by renumbering the remaining sections accordingly;
and
On page 18, line 8, before the word "certification" by inserting "***master's level***".

Representative Siler moved that the House concur in Senate Committee Amendment No. 1 to **HB 161**. Agreed.

Representative Siler moved that **HB 161**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 79, Nays 8**. (See March 28, 1998 roll call on **HB 161** - Appendix.)

HB 161, as amended by the Senate, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 161**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 221, HB 439, HB 542, HB 555, HB 564, HB 588, HB 593, HB 660, HB 675, HB 740, HB 792, HB 852, HB 856, HB 881, HB 886, HB 910, HB 946, HCR 8, HCR 11, HCR 22, HCR 114,** and **HJR 141** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:40 a.m.)

Orders of the Day (Continued)

Representative Stumbo moved that the rules be suspended and the House refuse to concur in the Senate Committee Substitute to **HB 576** and the Senate Committee Substitute to **HB 577**. Agreed.

Representative Stumbo moved that the rules be suspended to appoint Free Conference Committees on **HB 576** and **HB 577**. Agreed.

HB 244, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 244** is as follows:

On page 1, line 21 after the words "*specified in this section.*" by deleting the remainder of the section.

Representative Callahan moved that the House concur in Senate Floor Amendment No. 1 to **HB 244**. Agreed.

Representative Callahan moved that **HB 244**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 87, Nays 2**. (See March 28, 2000 roll call on **HB 244** - Appendix.)

HB 244, as amended by the Senate, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 244**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 310, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 310** is as follows:

HB 310, AN ACT relating to medical licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.571 is amended to read as follows:

(1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read, and write the English language;

(b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;

(d) Has satisfactorily completed a prescribed course of postgraduate training of ***a***[~~at least one (1) full year's~~] duration ***to be established***[~~and approved~~] by the board ***in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine***;

(e) Has successfully completed, in a single sitting, an examination prescribed by the board;

(f) Has complied with the requirements of KRS 214.615(1); and

(g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read, and write the English language;

(b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;

(d) Has successfully completed, in a single sitting, an examination prescribed by the board;

(e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;

(f) Has satisfactorily completed ***a***[~~at least three (3) full years of~~] prescribed ***course***[~~courses~~] of postgraduate training ***of a duration to be established***[~~approved~~] by the board ***in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine***;

(g) Has complied with the requirements of KRS 214.615(1); and

(h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:

(a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or

(b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and (h) of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board;

(c) Has complied with the requirements of KRS 214.615(1); and

(d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.

(4) The board may grant an applicant a limited license-institutional practice for an unrenewable period of one (1) year if the applicant:

(a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e), and (h) of subsection (2) of this section;

(b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)(d) of this section;

(c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; and

(d) Has complied with the requirements of KRS 214.615(1).

(5) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain

licensure in the Commonwealth without further testing and training if the applicant:

(a) Has been endorsed in writing by the applicant's original licensing state as being currently licensed in good standing in that state; and

(b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.

(6) No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.

(7) Notwithstanding any of the requirements for licensure established by subsections (1) to (6) of this section, the board may deny licensure to an applicant or the reregistrant of an inactive license without a prior hearing upon a finding that the applicant or reregistrant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice. Orders denying licensure may be appealed pursuant to KRS 311.593.

(8) Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training, and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.

Representative Jordan moved that the House concur in the Senate Committee Substitute to **HB 310**. Agreed.

Representative Jordan moved that **HB 310**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See March 28, 2000 roll call on **HB 310** - Appendix.)

HB 310, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Jordan moved that the vote by which **HB 310**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 405, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 405** is as follows:

HB 405, AN ACT relating to emergency medical services and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.950 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As used in KRS ***311.652 to 311.658***[~~211.952 to 211.956~~], unless the context otherwise requires:

(1)[~~"Advisory committee" means the Emergency Medical Services for Children Advisory Committee of the Kentucky Emergency Medical Services Council established under KRS 211.9533;~~

~~(2)~~] "Ambulance" means a vehicle which has been inspected and approved by the ***board***[~~cabinet~~], including a helicopter or fixed wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being;

(2)[~~(3)~~]"Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] to provide medical transportation services as either basic life support or advanced life support and who may have a vehicle or vehicles, including ground vehicles, helicopters, or fixed-wing aircraft. An ambulance provider may be licensed as an air ambulance provider; as a Class I ground ambulance provider; as a Class II ground ambulance provider; or as a Class III ground ambulance provider;

(3) "Board" means the Kentucky Board of Emergency Medical Services;

(4) "Department" means the Department for Public Health;

(5) "Emergency medical facility" means a hospital, trauma center, or any other institution licensed by the Cabinet for Health Services that furnishes emergency medical services;

(6) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury;

(7) "Emergency Medical Services for Children Program" or "EMSC Program" means the program established under ***Section 5 of this Act***[~~KRS 211.9531~~];

(8) "Emergency medical services personnel" means persons, including physicians, certified or licensed, and trained to provide emergency medical services, whether on a paid or volunteer basis, as part of basic life support, advanced life support, ***or*** prehospital ***services***[~~, or hospital emergency care services or in an emergency department or critical care or specialized unit in a licensed hospital or other licensed emergency or critical care medical facility~~];

(9) "Emergency medical services system" means a coordinated system of health-care delivery that responds to the needs of acutely sick and injured adults and children, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained emergency medical services personnel, medical first response, ground and air ambulance services,[~~ emergency medical facilities and specialty care hospitals,~~] trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures;

(10) ***"Emergency medical technician" or "(EMT)" means a person certified under KRS 311.652 to 311.658 as an EMT-first responder, EMT-basic, EMT-basic instructor, EMT-instructor trainer, or EMT-first responder instructor;***

(11) "Medical director" means a physician licensed in Kentucky who is employed by, under contract to, or has volunteered to serve as the medical director of a licensed ambulance service;

(12) "Paramedic" means a person who is primarily involved in the delivery of emergency medical services and is licensed under KRS 311.652 to 311.658;

(13) "Prehospital care" means the provision of emergency medical services or transportation by trained and certified or licensed emergency medical services personnel at the scene of an emergency or while transporting sick or injured persons to a hospital or other emergency medical facility;

(14)[~~(11)~~] "Regional emergency medical services system" means a system approved by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] which provides for the arrangement of personnel, facilities, equipment, or any of the above, for the effective and coordinated delivery of health-care services in an appropriate geographical area;

(15)[~~(12)~~] "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability; and

(16)[~~(13)~~] "Trauma care system" means a subsystem within the emergency medical services system consisting of an organized arrangement of personnel, equipment, and facilities designed to manage the treatment of the trauma patient.

SECTION 2. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Emergency Medical Services is created and shall consist of sixteen (16) members who are residents of Kentucky appointed by the Governor in conjunction with recognized state emergency medical services related organizations. Membership shall be made up of the following:

(a) One (1) paramedic who works for a government agency but is not serving in an educational, management, or supervisory capacity;

(b) One (1) emergency medical technician-basic who works for a government agency but is not serving in an educational, management, or supervisory capacity;

(c) One (1) emergency medical technical-first responder who is not serving in an educational, management, or supervisory capacity;

(d) One (1) physician licensed in Kentucky having a primary practice in the delivery of emergency medical care selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

(e) One (1) physician licensed in Kentucky serving as medical director of an advanced life support ambulance service, selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

(f) One (1) physician licensed in Kentucky who is routinely involved in the emergency care of ill and injured children selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

(g) One (1) trauma surgeon licensed in Kentucky selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

(h) One (1) citizen having no involvement in the delivery of medical or emergency services;

(i) One (1) emergency medical services educator from a Kentucky college or university that provides an emergency medical services educational program;

(j) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service;

(k) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service;

(l) One (1) volunteer-staffed, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;

(m) One (1) fire-service-based, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;

(n) One (1) hospital administrator selected from a list of five (5) nominees submitted by the Kentucky Hospital Association;

(o) One (1) basic life support, licensed Class I government-operated ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic; and

(p) One (1) advanced life support, government-operated ambulance service administrator who is a certified emergency medical technician or a licensed paramedic.

(2) No board member shall serve more than two (2) consecutive terms.

(3) The board shall elect a chair by majority vote of the members present at its first annual meeting.

(4) The board shall adopt a quorum and rules of procedure by administrative regulation.

(5) A member of the board who misses three (3) meetings in one (1) year shall be deemed to have resigned from the board and his or her position shall be deemed vacant. The person removed under this subsection shall not be reappointed to the board for ten (10) years. The year specified in this subsection shall begin with the first meeting missed and end three hundred sixty-five (365) days later or with the third meeting missed, whichever occurs earlier. The Governor shall appoint a person of the same class to fill the vacancy within ninety (90) days.

(6) Members of the board and of all committees shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement. The board shall meet at least six (6) times each year.

(7) The board shall:

(a) Exercise all of the administrative functions of the state in the regulation of the emergency medical services system and the practice of first responders, emergency medical technicians, paramedics, ambulance services, and training institutions;

(b) Issue, deny, suspend, limit, restrict, and revoke any licenses or certifications, and reprimand or place an individual with a license or certificate on probation;

(c) Appoint an executive director and fix the compensation. The executive director shall serve at the pleasure of the board, administer the day-to-day operations of the agency, and supervise all directives of the board. The director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration or in the administration of an emergency medical services program;

(d) Appoint or contract with a physician who is board certified in emergency medicine and fix the compensation. The physician shall serve as the medical advisor to the Kentucky Board of Emergency Medical Services and the staff of the board;

(e) Appoint a general counsel and fix the compensation;

(f) Employ personnel sufficient to carry out the statutory responsibilities of the board.

1. Personnel assigned to regulate or support the emergency medical technician first responder program shall be certified emergency medical technician first responders or emergency medical technicians.

2. Personnel assigned to regulate or support the emergency medical technician program shall be certified emergency medical technicians or paramedics.

3. Personnel assigned to regulate or support the paramedic program shall be licensed paramedics.

4. Personnel in purely clerical roles need not be certified in the manner specified in this section;

(g) Establish committees and subcommittees, who need not be members of the board, as necessary;

(h) Collect any fees established by the promulgation of administrative regulations;

(i) Investigate and hold hearings for any disciplinary proceedings in accordance with KRS Chapter 13B;

(j) Establish and impose fines against individuals or agencies governed by the board;

(k) Enter into contracts, apply for grants and federal funds, and disburse funds to local units of government as approved by the General Assembly;

(l) Maintain a program and provide technical assistance for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state;

(m) Collect and analyze data for evaluation of emergency medical services in the Commonwealth;

(n) Administer the Emergency Medical Services for Children Program; and

(o) Establish minimum curriculum and standards for emergency medical services training.

(8) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities.

Section 3. KRS 211.952 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the functions of KRS 311.652 to 311.658, including, but not limited to:

(1) ~~[The Cabinet for Health Services shall maintain a program for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state.~~

~~(2) The Cabinet for Health Services shall establish and designate a single lead agency under the supervision and direction of the commissioner of public health which will carry out all administrative functions related to the planning, development, improvement, and expansion of emergency medical services systems throughout the state. This will include:~~

~~(a) The training and certification of prehospital personnel;~~

~~(b) The promulgation of standards and regulations for emergency medical services personnel;~~

~~(c) The promulgation of administrative regulations for the~~]Licensing, *inspecting*[~~inspection~~], and *regulating*[~~regulation~~] of ambulance *services* and medical first-response providers. The administrative regulations shall address specific requirements for:

(a)[~~1.~~] Air ambulance providers*,* which provide basic or advanced life support services;

(b)[~~2.~~] Class I ground ambulance providers, which provide basic life support or advanced life support services to all patients for[~~ both~~] emergencies and scheduled ambulance transportation which is medically necessary;

(c)[~~3.~~] Class II ground ambulance providers, which provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary;

(d)[~~4.~~] Class III ground ambulance providers, which provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care; and

(e)[~~5.~~] Medical first-response providers*, which*[~~ who~~] provide prehospital basic life support services, or advanced life support services, but do not transport patients;

(2)[~~(d)~~]*Establishing,* planning*,* and *developing*[~~development of~~] emergency medical services and trauma care systems;

(3)[~~(e)~~]*Promulgating*[~~Promulgation of~~] voluntary standards for trauma centers and other specialized emergency medical facilities;

[~~(f) Provision of funding and technical assistance as shall become available; and~~]

(4)[~~(g)~~]Establishing minimum data reporting requirements, including requirements specifically related to emergency medical services and trauma care of children, for ambulance providers and trauma centers[~~ and other specialized emergency medical facilities~~] and collection and analysis of data related to the provision of emergency medical services and trauma care;[~~ and~~]

(5)[~~(h)~~]*Maintaining*[~~Establishing~~] the Emergency Medical Services for Children Program with federal funds so designated plus any additional funds that may be appropriated by the General Assembly, or any other funds that may become available to the *Kentucky Board of Emergency Medical Services*[~~cabinet~~], including gifts, grants, or other sources*;*[~~.~~

~~(3) Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.~~]

(6)[~~(4)~~]*Developing*[~~The cabinet shall promulgate administrative regulations and perform the necessary functions to carry out the purpose of this section including:~~

~~(a) Delineation, by administrative order of the secretary, of the geographic boundaries of regional emergency medical services systems.~~

~~(b) Promulgation of administrative regulations providing for:~~

~~1. Composition of regional emergency medical services advisory boards to serve in an advisory capacity to the Kentucky Emergency Medical Services Council;~~

~~2. Terms of office of regional emergency medical services advisory board members;~~

~~3. Appointment of regional emergency medical services advisory board members; and~~

~~4. Such other matters relating to regional emergency medical services systems as may be necessary.~~

~~(c) Provision of technical assistance to regional emergency medical services advisory boards, units of local government, and others in planning for the development, coordination, and monitoring of emergency medical services.~~

~~(d) Development of~~] a statewide plan for the implementation of emergency medical services systems and trauma care systems within the Commonwealth of Kentucky *that*[~~which~~] specifically addresses the unique needs of rural areas*;*[~~.~~]

(7)[~~(e)~~]***Issuing***[~~Issuance of~~] a format for the development of regional emergency medical services plans consistent with goals and standards included in the statewide emergency medical services plan.

(8)[~~(f)~~] ***Applying***[~~Application~~] for, ***receiving***[~~receipt of~~], and ***disposing***[~~disposition~~] of federal, state, or private funds by grant, appropriation, donation, or otherwise for emergency medical services programs, personnel, and equipment***;***[~~.~~

> ~~(g) Awarding of funds to regional emergency medical services systems to implement specific objectives delineated in regional emergency medical services plans, including assistance to local governments for their provision of ambulance service.~~]

(9)[~~(h)~~]***Developing***[~~Development~~], monitoring, and ***encouraging***[~~encouragement~~] of[~~ such~~] other projects and programs ***that***[~~which~~] may be of benefit to emergency medical services in the Commonwealth***; and***

(10) Establishing standards related to the training of emergency medical services personnel.

Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.

[~~(i) Conducting verification inspections to ensure compliance with voluntary standards established by the cabinet for trauma centers, emergency departments, and specialized hospital-based services for which standards have been established by the cabinet for emergency medical services and trauma care systems.~~

~~(5) The cabinet shall establish a Kentucky Emergency Medical Services Council which shall advise the cabinet on issues relating to the development, implementation, regulation, maintenance, and reimbursement of emergency medical services systems and providers. This council shall be broadly representative of individuals, providers, and public officials having expertise in emergency medical services. The council shall consult with the Kentucky Board of Medical Licensure to establish medically appropriate standards and protocols which will be utilized by emergency medical services personnel and to assist the Kentucky Board of Medical Licensure in meeting the requirements of KRS 311.654. The council shall consult with the Kentucky Board of Nursing to establish appropriate standards and protocols to meet the requirements of KRS 314.131 for nurses who practice in emergency medical service settings.~~

~~(6) Data and records generated and kept by the single emergency medical services administrative agency, the Kentucky Emergency Medical Services Council, the Emergency Medical Services for Children Advisory Committee, the Kentucky Emergency Medical Services for Children Program or their contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first-response providers, and emergency medical facilities, shall be held confidential, shall not be subject to disclosure under KRS 61.805 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery; provided, however, that nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment which otherwise would be admissible or discoverable.~~

~~(7) Nothing in this section shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses.~~]

Section 4. KRS 211.953 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The Kentucky General Assembly declares that the purpose of ***Section 5 of this Act***[~~KRS 211.9531 and 211.9533~~] is to establish a comprehensive emergency medical services system for children, as an integral part of Kentucky's overall emergency medical services and trauma care system, in order to provide children with access to comprehensive emergency[~~ and critical care medical services, including preventive, prehospital, hospital, rehabilitation, and other posthospital~~] care. The General Assembly recognizes the contributions of the federally funded Emergency Medical Services for Children program in Kentucky and desires to continue and expand the activities initiated by this program. The General Assembly finds that coordination of emergency services, additional training of emergency medical services personnel, communication among service providers, and enhanced data collection efforts will provide children with access to skilled emergency care, decrease unnecessary deaths from injury, decrease the overall costs of health care, and provide information as to the quality of emergency medical care for children.

Section 5. KRS 211.9531 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

(1)[~~ There is established within the department's lead agency for emergency medical services an Emergency Medical Services for Children Program.~~

~~(2)~~] The ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] may hire a coordinator for the ***Emergency Medical Services for Children***[~~EMSC~~] Program[~~ who shall be assigned to the department's lead agency for emergency medical services. The authorized personnel cap for the department may be increased to include the coordinator~~] and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.

(2)[~~(3)~~]The coordinator shall***, subject to the direction of the Kentucky Board of Emergency Medical Services***:

(a) Implement and oversee the ***Emergency Medical Services for Children***[~~EMSC~~] Program described in this section[~~,~~

~~in consultation with the advisory committee established in Section 5 of this Act~~]; and

(b) Serve as liaison for collaboration and coordination between the ***Emergency Medical Services for Children***[~~EMSC~~] Program***, the Kentucky Board of Emergency Medical Services,*** and other public and private organizations,[~~ including the department's lead emergency medical services agency,~~] the state traffic safety office, the maternal and child health program, the Medicaid department, the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.

(3)[~~(4)~~]The ***Emergency Medical Services for Children***[~~EMSC~~] Program may include, but not be limited to, the establishment of the following:

(a)[~~ Guidelines for the approval of emergency medical services facilities for pediatric care, and designation of specialized regional pediatric critical care centers and pediatric trauma centers;~~

~~(b) Guidelines for referring children to the appropriate emergency medical facility;~~

~~(c)~~] Guidelines for necessary ***out-of-hospital***[~~prehospital and other pediatric emergency and critical care~~] medical service equipment;

(b)[~~(d) Guidelines for developing a coordinated system that will allow children to receive appropriate initial stabilization and treatment with timely provision of, or referral to, the appropriate level of care, including critical care, trauma care, or pediatric subspecialty care;~~

~~(e)~~] Guidelines and protocols for ***out-of-hospital***[~~prehospital and hospital facilities encompassing all levels of~~] pediatric emergency medical services[~~, pediatric critical care, and pediatric trauma care;~~

~~(f) Guidelines for rehabilitation services for critically ill or injured children;~~

~~(g) A system for transferring critically ill or injured children between emergency medical facilities, services, and systems~~];

(c)[~~(h)~~]***Assistance in the development and provision of***[~~Initial and continuing~~] professional education programs for emergency medical services personnel[~~, which shall include training~~] in the emergency care of infants and children;

(d)[~~(i) A public education program concerning the EMSC Program, including information on emergency access telephone numbers;~~

~~(j) The collection and analysis of statewide pediatric emergency and critical care medical services data from emergency medical facilities for the purpose of quality improvement by these facilities, subject to the confidentiality requirements of KRS 211.952(6);~~

~~(k) The establishment of cooperative interstate relationships to facilitate the provision of appropriate care for pediatric patients who must cross state borders to receive emergency medical services;~~

~~(l)~~] Coordination and cooperation between the ***Emergency Medical Services for Children***[~~EMSC~~] Program and other public and private organizations interested or involved in emergency[~~ and critical~~] care for children, including those persons and organizations identified in subsection *(2)*[~~(3)~~](b) of this section; and

(e)[~~(m)~~] The scope of activities carried out by the ***Emergency Medical Services for Children***[~~EMSC~~] Program shall be commensurate with the availability of funds.

Section 6. KRS 211.954 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

A matching fund program is hereby created for the purpose of assisting local ***units of government***[~~ambulance providers~~] in the purchases of ambulances and equipment***, provision of an adequate number of trained emergency medical services personnel, and provision of education for personnel***. The fund shall consist of such moneys as may be appropriated by the General Assembly or may be obtained from other sources for the fund as provided in this section[~~ and KRS 211.956~~]:

(1) Application and justification of need for moneys from the fund shall be based upon the state emergency medical services plan's priorities;

(2) Application for moneys from the fund may be made to the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] by any city, county, ***ambulance taxing district,*** or regional emergency medical services system based upon guidelines established by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~];

(3) Moneys from the fund will provide for up to a maximum of fifty percent (50%) of the actual cost of any ambulance or other item of equipment desired to be procured. No county, including all grants to entities within the county, shall receive more than twenty-five thousand five hundred dollars ($25,500) from the fund per year;

(4) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the recipient[~~ city, county, or regional emergency medical services system~~];

(5) Funding periods shall coincide with the fiscal year as established by the ***Kentucky Board of Emergency Medical***

Services[~~Cabinet for Health Services~~]; and

(6) Each ambulance or item of equipment purchased shall meet or exceed, if a standard has been set for the particular item of equipment, the standards set by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~].

Section 7. KRS 211.962 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

No person shall:

(1) Hold himself out as certified pursuant to KRS ***311.652 to 311.658***[~~211.962 to 211.968~~] nor use the ***title of emergency medical technician or***[~~initials~~] "EMT" when he does not hold a current valid certification issued pursuant to KRS ***311.652 to 311.658***[~~211.962 to 211.968~~]; or

(2) If certified, violate any provision of KRS ***311.652 to 311.658***[~~211.962 to 211.968~~] or any ***administrative***[~~rule or~~] regulation, adopted by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] relating to ***Section 8 of this Act***[~~KRS 211.964~~].

Section 8. KRS 211.964 is repealed, reenacted as a new section of KRS 311.652 to 311,658, and amended to read as follows:

(1) The ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] shall promulgate administrative regulations relating to emergency medical technicians. The ***administrative*** regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards[~~ or regulations~~] as may be necessary for the protection of public health and safety in the delivery of emergency medical services.[~~ Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.~~] No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.

(2) Recertification programs shall be organized to include continuing education and in-service training approved by the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~]. The continuing education program shall be subject to the requirements of KRS 214.610(1).

(3) ***Beginning the effective date of this Act, a new emergency medical technician shall, for initial certification, be certified using the requirements and testing established by the National Registry of Emergency Medical Technicians.***

(4) Beginning the effective date of this Act, a certified emergency medical technician who seeks recertification shall obtain recertification under the requirements established and maintained by the Kentucky Board of Emergency Medical Services. These requirements shall contain a minimum of sixteen (16) hours of required topics and eight (8) hours of elective topics over a two (2) year recertification period. The Kentucky Board of Emergency Medical Services shall also recertify any emergency medical technician who chooses to obtain recertification under the requirements established by the National Registry of Emergency Medical Technicians in lieu of the standards established by the Kentucky Board of Emergency Medical Services.

(5)[~~In lieu of the continuing education and in-service training requirement specified by the cabinet for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification requirements, the emergency medical technician shall be recertified for the period of time specified by law.~~

~~(4) Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.~~

~~(5) A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.~~

~~(6)~~] Other than the requirements of KRS 214.610(1), the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.

(6)[~~(7)~~]Other than the requirements of KRS 214.610(1), any person ***licensed***[~~certified~~] by the ***Kentucky Board of Emergency Medical Services***[~~State Board of Medical Licensure~~] as a paramedic shall be certified as an emergency medical technician by the ***board***[~~cabinet~~]. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that ***the***

paramedic ***license***[~~certification~~] is issued or expires, and if a paramedic voluntarily gives up his ***or her*** ***license***[~~certification~~] prior to the expiration of his ***or her*** paramedic ***license***[~~certification~~], his ***or her*** emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to ***be relicensed***[~~recertify~~] as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic ***license***[~~certification~~], ***complete the requirements for recertification***[~~recertify~~] as an emergency medical technician utilizing one (1) of the methods provided for in this section.

(7)[~~(8)~~]A paramedic whose ***license***[~~certification~~] as a paramedic is suspended, revoked, or denied by the ***Kentucky Board of Emergency Medical Services***[~~State Board of Medical Licensure~~] shall have the same action taken automatically[~~ by the cabinet~~] with regard to his emergency medical technician certification.

Section 9. KRS 211.966 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The ***Kentucky Board of Emergency Medical Services***[~~secretary of the Cabinet for Health Services~~] may, by ***administrative*** regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ***licenses or*** certificates, and for the renewal of ***licenses or*** certificates issued pursuant to KRS ***311.652 to 311.658***[~~211.962 to 211.968~~]. All such fees, charges, or other moneys collected by the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] under KRS ***311.652 to 311.658***[~~211.962 to 211.968~~] shall be paid into the State Treasury and credited to a trust and agency fund to be used by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] for carrying out the provisions of KRS ***311.652 to 311.658***[~~211.962 to 211.968~~].

Section 10. KRS 211.967 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As a condition of being issued a certificate as an emergency medical technician, the applicant shall have completed a ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 11. KRS 211.968 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

Nothing in KRS ***311.652 to 311.658***[~~ 211.962 to 211.966~~] shall be construed to permit certification or utilization of any certified emergency medical technician ***or emergency medical technician first responder*** for the purpose of such individual working full time with primary responsibility and duties limited to hospitals, physicians' offices, clinics, or other definitive care facilities, except[~~ for certification or utilization of a person~~] as an emergency medical technician trainee or as a full-time instructor of emergency medical technicians.

Section 12. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.

(5)[~~ Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Health Services adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.~~

~~(6)~~] A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.

(6)[~~(7)~~]Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.

(7)[~~(8)~~]A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

(8)[~~(9)~~]Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

(9)[~~(10)~~] The penalties provided in subsections ***(5),*** (6), (7), ***and*** (8)[~~, and (9)~~] of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(10)[~~(11)~~] Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

Section 13. KRS 216B.410 is amended to read as follows:

(1) Each licensed ambulance provider and medical first response provider as defined in ***Section 3 of this Act***[~~KRS 211.952(2)~~] shall collect and provide to the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] run data and information required by the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] by administrative regulation.

(2) The ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall develop a run report form for the use of each class of ambulance provider and medical first response provider containing the data required in subsection (1) of this section. An ambulance provider or medical first response provider may utilize any run form it chooses in lieu of or in addition to the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~]-developed run report form. However, the data captured on the run report form shall include at least that required by the administrative regulations promulgated pursuant to subsection (1) of this section.

(3) An ambulance provider or medical first response provider ***shall***[~~may~~] report the required run report data and information by ***completing an annual report as established by the Kentucky Board of Emergency Medical Services***[~~sending copies of the completed run report forms to the cabinet~~] or by transmitting the required data and information to the cabinet in an electronic format. If the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] requires the use of a specific electronic format, it shall provide a copy of the file layout requirements, in either written or electronic format, to the licensed ambulance provider or medical first response provider at no charge.

(4)[~~Each ambulance provider or medical first response provider shall submit its run reports or data summary reports in electronic format on the time schedule specified by the cabinet by administrative regulation.~~

~~(5)~~] The ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall publish a comprehensive annual report reflecting the data collected, injury and illness data, treatment utilized, and other information deemed important by the ***board***[~~cabinet~~]. The annual report shall not include patient identifying information or any other information identifying a natural person. A copy of the comprehensive annual report shall be forwarded ***to the Governor and the General Assembly***[~~by the cabinet to the Kentucky Board of Medical Licensure~~].

(5)[~~(6)~~]Ambulance provider and medical first response provider run report forms and the information transmitted electronically to the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall be confidential. No person shall make an unauthorized release of information on an ambulance run report form or medical first response run report form. Only the patient or the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient's run report form or the inspection or copying of the run report form. Any authorization for the release of information or for inspection or copying of a run report form shall be in writing.

(6)[~~(7)~~]If a medical first response provider or ambulance provider does not use a paper form but collects patient data through electronic means, it shall have the means of providing a written run report that includes all required data elements to the medical care facility. A copy of the medical first response form or a summary of the run data and patient information shall be made available to the ambulance service that transports the patient. A copy of the ambulance run report form shall be made available to any medical care facility to which a patient is transported and shall be included in the patient's medical record by that facility. If a patient is not transported to a medical facility, the copy of the run report form that is to be given to the transporting ambulance provider or medical care facility shall be given to the patient or to the patient's parent or legal guardian. If the ambulance provider, medical facility, patient, or patient's legal guardian refuses delivery of their run report form or is unavailable to receive the form, that copy of the form shall be returned to the medical first response provider or ambulance provider and destroyed.

(7)[~~(8)~~]All ambulance services shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

(a) Employee records, including a resume of each employee's training and experience and evidence of current certification; and

(b) Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.

(8) Data and records generated and kept by the Kentucky Board of Emergency Medical Services or its contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first-response providers, and emergency medical facilities, shall be confidential, shall not be subject to disclosure under KRS 61.805 to 61.850 or KRS 61.870 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery. However, nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment that otherwise would be admissible or discoverable.

Section 14. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;

(b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;

(c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;

(d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle shall have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;

(e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;

(f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;

(2) (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;

(b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;

(c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;

(3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;

(4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term ; and

(5) (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in ***Section 1 of this Act***~~[KRS 211.950]~~. It shall not mean a motor vehicle equipped with a stretcher;

(b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles; and

(c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principle operation of which is confined to a specific county.

Section 15. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection;

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or

(e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in ***Section 1 of this Act***[~~KRS 211.950~~];

(9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;

(10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;

(12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section; or

(13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI.

Section 16. KRS 304.17A-580 is amended to read as follows:

(1) Health benefit plans shall educate their insureds about the availability, location, and appropriate use of emergency and other medical services, cost-sharing provisions for emergency services, and the availability of care outside an emergency department.

(2) ***All*** health benefit plans using a defined network of health care providers shall cover ***emergency medical services and supplies and*** emergency department screening and stabilization services both in-network and out-of-network without prior authorization for use consistent with the prudent layperson standard.

(3) Emergency department personnel shall contact a patient's primary care provider or health benefit plan, as appropriate, as quickly as possible to discuss follow-up and poststabilization care and promote continuity of care.

(4) Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policies.

Section 17. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one (1) person as the result of one (1) accident shall be ten thousand dollars ($10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, ***licensed ambulance services,*** and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars ($1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

(b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him.

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include:

(a) Conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or

(b) Conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth,

propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section.

(8) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(9) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(10) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(11) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(12) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(13) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.

(14) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(15) A "user" means a person who resides in a household in which any person owns or maintains a motor vehicle.

(16) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(17) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

Section 18. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by ***paramedics licensed under KRS 311.652 to 311.658, emergency medical technician first responders, or*** emergency medical technicians[~~ or medical emergency dispatchers~~] certified ***under KRS 311.652 to 311.658***[~~by the Cabinet for Health Services~~], the practice

of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;

(18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and

(19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

SECTION 19. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

(1) When the Kentucky Board of Emergency Medical Services is engaged in the investigation or discipline of an entity licensed by the Kentucky Board of Emergency Medical Services, or a paramedic, emergency medical technician first responder, or emergency medical technician, or it is alleged that a paramedic, emergency medical technician first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as a paramedic, emergency medical technician first responder or emergency medical technician, the paramedic, emergency medical technician first responder, emergency medical technician, his or her employer, and the ambulance service's medical director shall be parties to the action and have the right to testify at any deposition, hearing, or other proceeding relating to the investigation or discipline of the paramedic, emergency medical technician first responder, or emergency medical technician.

(2) The paramedic, emergency medical technician first responder, emergency medical technical, his or her employer, and the ambulance service's medical director shall have the right to appeal any portion of a decision of the Kentucky Board of Emergency Medical Services that affects them to the Franklin Circuit Court.

(3) The Kentucky Board of Emergency Medical Services shall investigate any complaint against an entity regulated by the board, a paramedic, emergency medical technician first responder, or emergency medical technician and make findings of fact and conclusions of law.

(4) If it appears that the entity regulated by the board, the paramedic, emergency medical technician first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, emergency medical technician first responder, or emergency medical technician, the board shall hold a full hearing under KRS Chapter 13B to determine whether the violation occurred. If it is determined that an entity regulated by the Kentucky Board of Emergency Medical Services, a paramedic, emergency medical technician first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, emergency medical technician first responder, or emergency medical technician, the Kentucky Board of Emergency Medical Services may impose any of the sanctions provided in subsection (5) of this section. Any party to the complaint shall have the right to introduce the findings of fact and conclusions of law.

(5) The Kentucky Board of Emergency Medical Services may use any one (1) or more of the following sanctions when disciplining any entity regulated by the board, paramedic, emergency medical technician first responder, or emergency medical technician:

(a) Private reprimand that shall be shared with each of the paramedic's, emergency medical technician first

responder's, or emergency medical technician's employer and medical director;

(b) Public reprimand;

(c) Fines;

(d) Revocation of certification or licensure;

(e) Suspension of licensure until a time certain;

(f) Suspension until a certain act or acts are performed;

(g) Limitation of practice permanently;

(h) Limitation of practice until a time certain;

(i) Limitation of practice until a certain act or acts are performed; or

(j) Repassing a portion of the paramedic or emergency medical technician examination.

Section 20. KRS 311.652 is amended to read as follows:

No person shall:

(1) Hold himself out as ***licensed***[~~certified~~] pursuant to KRS ***311.652***[~~311.650~~] to 311.658 nor use the term "paramedic" when he does not hold a current valid ***license***[~~certification~~] issued pursuant to KRS ***311.652***[~~311.650~~] to 311.658; or

(2) If ***licensed***[~~certified~~], violate any provision of KRS ***311.652***[~~311.650~~] to 311.658 or any ***administrative***[~~rule or~~] regulation, adopted by the ***Kentucky Board of Emergency Medical Services***[~~board of Medical Licensure~~], relating to KRS 311.654.

Section 21. KRS 311.654 is amended to read as follows:

(1) The ***Kentucky*** Board of ***Emergency*** Medical ***Services***[~~Licensure~~] shall promulgate administrative regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and ***licensure***[~~certification~~] of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of ***licenses***[~~certificates~~], and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

(2) ***Relicensure programs shall be organized to include continuing education and in-service training approved by the board.*** Any continuing education required by the ***Kentucky*** Board of ***Emergency*** Medical ***Services***[~~Licensure~~] shall include ***an***[~~a Cabinet for Health Services~~] approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change***, subject to Section 26 of this Act***.

[~~(3) The Kentucky Board of Medical Licensure shall enter into an agreement with the Cabinet for Health Services whereby the cabinet's lead agency for emergency medical services shall carry out the day-to-day administration of this section under administrative regulations promulgated by the Board of Medical Licensure. The Kentucky Emergency Medical Services Council will provide advice and recommendations to the Kentucky Board of Medical Licensure related to the provisions of KRS 311.650 to 311.658.~~]

Section 22. KRS 311.656 is amended to read as follows:

The ***Kentucky*** Board ***of Emergency Medical Services***[~~ of Medical Licensure~~] may, by ***administrative*** regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ***licenses***[~~certificates~~], and for the renewal of ***licenses***[~~certificates~~] issued pursuant to KRS ***311.652***[~~311.650~~] to 311.658. All such fees, charges or other moneys collected by the board[~~ of Medical Licensure~~] under KRS ***311.652***[~~311.650~~] to 311.658 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the board[~~ of Medical Licensure~~] for carrying out the provisions of KRS ***311.652***[~~311.650~~] to 311.658.

Section 23. KRS 311.658 is amended to read as follows:

(1) At the discretion of the employer's medical director, a paramedic may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for paramedics published by the United States Department of Transportation. An emergency medical technician may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for emergency medical technicians. An emergency medical technician first responder may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for emergency medical technician first responders. Any paramedic, emergency medical technician first responder, or emergency medical technician may perform any additional procedure authorized by the Kentucky Board of Emergency Medical Services if approved by the employer's medical director and within the scope of the designated practice based upon national practice standards. With the approval of the employer's medical director, a paramedic, emergency medical technician first responder, or emergency medical technician may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for paramedics or the most recent national standard

curriculum for emergency medical technicians-basic or emergency medical technician first responder published by the United States Department of Transportation respectively, and other procedure authorized by the Kentucky Board of Emergency Medical Services. Nothing in this subsection shall prevent an employer from exercising reasonable fiscal control over the costs of providing emergency medical services to its citizens nor prevent the employer from exercising any reasonable control over paramedics, emergency medical technician first responders, or emergency medical technicians providing emergency medical care upon behalf of the licensed entity.

(2) Any paramedic may draw blood samples from a criminal defendant upon the request of a peace officer and the consent of the defendant, or without the consent of the defendant upon receipt of a court order requiring the procedure, if the paramedic is authorized to do so by his or her employer. The authorization shall be in writing and may be by general written policy of the employer and the service's medical director. The paramedic who drew the blood sample shall deliver the sample to the peace officer or other person specified by the court in a court order and shall testify in court with regard thereto upon service of a proper subpoena.

(3) Paramedics shall be permitted to render services only~~[in emergency situations, and shall perform such services]~~ under supervision of a qualified and licensed ***physician***~~[health practitioner]~~.

Section 24. KRS 311.660 is amended to read as follows:

(1) When it appears that a person whom a paramedic who has successfully completed training in determination of death has been called to attend is dead, the paramedic shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the paramedic or an emergency medical technician who has responded with or after the paramedic, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the paramedic may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the paramedic may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.

(2) In the event that a paramedic determines that a person is dead, the paramedic shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

(3) Any paramedic course taught after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the ***Kentucky Board of Emergency Medical Services***~~[board of Medical Licensure]~~ by administrative regulation.

(4) Any paramedic ***relicensed***~~[recertified]~~ within the ***three (3)***~~[two (2)]~~ years following July 15, 1998, shall successfully complete in-service training required by the ***Kentucky Board of Emergency Medical Services***~~[board of Medical Licensure]~~ by administrative regulation relating to determination of death and preservation of evidence. Any paramedic who does not successfully complete the required in-service training shall not be ***relicensed***~~[recertified]~~.

(5) Any paramedic from another jurisdiction desiring to become a paramedic in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section, and ***licensure***~~[certification]~~ as a paramedic shall be denied if the required evidence is not shown.

(6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the paramedic by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person, other than a registered nurse rendering care pursuant to KRS 314.181, prior to the arrival of the paramedic shall preclude the determination of death by the paramedic, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the paramedic to cease resuscitative efforts under approved agency medical protocols.

(7) The resuscitative efforts of a paramedic under the protocols authorized by this section shall not invoke the provisions of KRS 446.400.

Section 25. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the

provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any person who ***falsely represents that he or she is a paramedic, emergency medical technician first responder or medical technician***~~[violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654]~~ shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a violation.

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.

(27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 26. KRS 214.610 is amended to read as follows:

(1) The Cabinet for Health Services shall approve appropriate educational courses on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, 335 and emergency medical technicians ***certified***~~[licensed]~~ pursuant to KRS Chapter ***311***~~[211]~~.

(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except persons licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 27. The following KRS sections are repealed:

211.9533 Emergency Medical Services for Children Advisory Committee.

211.9535 Biennial report on EMSC Program.

211.956 Matching fund program for providing trained emergency medical service personnel.

211.960 Title.

311.650 Definition.

Section 28. The following implementation schedule shall apply to this Act:

(1) The members of the Kentucky Board of Emergency Medical Services shall be appointed by the Governor on September 1, 2000.

(2) The board shall hire an executive director and essential staff on November 1, 2000.

(3) The Kentucky Board of Emergency Medical Services, the Cabinet for Health Services, and the Kentucky Board of Medical Licensure may implement a transfer of fees, funds, functions, equipment, personal property, and records at any time mutually agreed upon after January 1, 2001, but no later than April 1, 2001.

(4) Until such time as a function is transferred by the Cabinet for Health Services to the Kentucky Board of Emergency Medical Services or the Kentucky Board of Medical Licensure the functions shall remain the duty of the Cabinet for Health Services or the Kentucky Board of Medical Licensure.

(5) All causes relating to the provisions of Sections 1 to 26 of this Act pending before the Cabinet for Health Services on January 1, 2001, shall be transferred to the Kentucky Board of Emergency Medical Services no later than April 1, 2001.

The Senate Floor Amendment No. 2 Title to **HB 405** is as follows:

By amending the title to read as follows: "AN ACT to relating to emergency medical services."

Representative Nunn moved that the House concur in the Senate Committee Substitute to **HB 405**. Agreed.

Representative Nunn moved that **HB 405** by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 28, 2000 roll call on **HB 405** - Appendix.)

HB 405, by way of Senate Committee Substitute, was passed.

Representative Nunn moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 405**. Agreed; and the title was agreed to.

Representative Nunn moved that the vote by which **HB 405**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 462, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 462** is as follows:

On page 13, between lines 11 and 12, by inserting the following:

"Section 11. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Commonwealth merit scholarship" means a scholarship provided to an eligible student to attend a participating institution;

(7) "Commonwealth merit scholarship curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(8) "Commonwealth merit scholarship trust fund" means the Wallace G. Wilkinson Commonwealth merit scholarship trust fund;

(9) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(10) "Eligible student" means any person who is a Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the Commonwealth merit scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;

(11) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(12) "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(13) "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(14) "Maximum award amount" means the sum of the proportionate base scholarship amount earned by an eligible student in each academic year of high school study and any supplemental award earned by an eligible student. The amount so determined shall be the maximum amount available to the eligible student for any award period;

(15) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; ***or***~~[and]~~

3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

(16) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(17) "Supplemental award" means commitment of additional scholarship funds under KRS 164.7879(3) to an eligible student based on the eligible student's ACT score.

SECTION 12. A NEW SECTION OF KRS 164.7871 to 164.7889 IS CREATED TO READ AS FOLLOWS:

An eligible student who has earned a Kentucky educational excellence scholarship, or the Kentucky educational excellence scholarship and the supplemental award and who is enrolled in an out-of-state institution shall be eligible to receive the Kentucky educational excellence scholarship, or the Kentucky educational excellence scholarship and the supplemental award if he or she is enrolled in a degree program in a field of study that is not available at any participating institution in the Commonwealth. The Council on Postsecondary Education shall promulgate administrative regulations to establish procedures to designate an out-of-state institution as an approved participating institution as defined in KRS 164.7874 and to notify the Kentucky Higher Education Assistance Authority of its approval to transfer to the out-of-state institution the amount of the scholarship and supplemental award earned by the eligible student."; and

On page 13, line 12, by renumbering the subsequent section.

Representative Rasche moved that the House concur in Senate Floor Amendment No. 1 to **HB 462**. Agreed.

Representative Rasche moved that **HB 462**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 28, 2000 roll call on **HB 462** - Appendix.)

HB 462, as amended by the Senate, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 462**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 517** is as follows:

On page 1, between the enacting clause and line 1 by inserting:

"SECTION 1. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Administrator" is defined in KRS 304.9-051(1);

(2) "Agent" is defined in KRS 304.9-020;

(3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in Section 11 of this Act;

(4) "Authority" means the Kentucky Health Care Improvement Authority;

(5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;

(6) "Commissioner" is defined in KRS 304.1-050(1);

(7) "Department" is defined in KRS 304.1-050(2);

(8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;

(9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;

(10) "Eligible individual" is defined in subsection (7) of Section 17 of this Act;

(11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance program established and

operated under KRS 304.17A-400 to 304.17A-480;

(12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through September 30, 2000, in the individual market to guaranteed acceptance program qualified individuals;

(13) "Health benefit plan" is defined in KRS 304.17A-005(17);

(14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;

(15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;

(16) "Insurer" is defined in subsection (22) of Section 17 of this Act;

(17) "Kentucky Access" means the program established in accordance with Sections 1 to 16 of this Act;

(18) "Kentucky Access Fund" means the fund established in Section 11 of this Act;

(19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in subsection (5) of Section 2 of this Act;

(20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in subsection (5) of Section 2 of this Act;

(21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;

(22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;

(23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;

(24) "Pre-existing condition exclusion" is defined in KRS 304.17A-220(3);

(25) "Standard health benefit plan" means a health benefit plan that meets the requirements of Section 21 of this Act;

(26) "Stop-loss carrier" means any person providing stop-loss health insurance coverage;

(27) "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and

(28) "Utilization management" is defined in KRS 304.17A-500(12).

SECTION 1. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of thirteen (13) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with Sections 1 to 16 of this Act and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

- *(a) The commissioner of the Department of Insurance, who shall serve as chairperson;*
- *(b) The secretary of the Cabinet for Health Services, who shall serve as vice chairperson;*
- *(c) One (1) nonvoting member serving ex officio from the House of Representatives, who shall be appointed by and serve at the pleasure of the Speaker of the House;*
- *(d) One (1) nonvoting member serving ex officio from the Senate, who shall be appointed by and serve at the pleasure of the President of the Senate;*
- *(e) The deans of the University of Louisville School of Medicine and the University of Kentucky College of Medicine;*
- *(f) The commissioner of the Department for Public Health;*
- *(g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and*
- *(h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.*

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of which shall be male and at least one (1) of which shall

be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen at-large members shall serve without compensation, but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall establish priorities for programs and the expenditure of funds, establish procedures for accountability, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the Department of Insurance for administrative purposes and shall establish advisory boards it deems appropriate which shall consist of health insurance consumers, health care providers, and insurance company representatives to assist with oversight of fund expenditures.

(5) Grants and funds obtained under this chapter shall be used for expenditures as follows:

(a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;

(b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

(c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall assure that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once, but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under Sections 1 to 16 of this Act. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 1 to 16 of this Act, including but not limited to retaining the staff it deems necessary for the proper performance of its duties.

(9) The authority shall meet at least quarterly and at other times upon call of the chairperson or a majority of the authority.

SECTION 2. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created Kentucky Access, which shall ensure that health coverage is made available to each Kentucky individual resident applying and qualifying for coverage. Any health coverage provided under this section shall begin no sooner than January 1, 2001. Kentucky Access is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health coverage allowed by federal law.

(2) Kentucky Access shall operate under the supervision of the department.

(3) Neither the department nor its employees shall be liable for any obligations of Kentucky Access. No member or employee of the department shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless such act or omission constitutes willful or wanton misconduct. The department may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

SECTION 3. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the department shall, through itself or designated agents:

(1) Establish administrative and accounting procedures for the operation of Kentucky Access;

(2) Enter into contracts as necessary;

(3) Take legal action necessary:

(a) To avoid the payment of improper claims against Kentucky Access or the coverage provided by or through Kentucky Access;

(b) To recover any amounts erroneously or improperly paid by Kentucky Access;

(c) To recover any amounts paid by the Kentucky Access as a result of mistake of fact or law;

(d) To recover other amounts due Kentucky Access; or

(e) To operate and administer its obligations under the provisions of Sections 1 to 16 of this Act;

(4) Establish, and modify as appropriate, rates, rate schedules, rate adjustments, premium rates, expense allowances, claim reserve formulas, and any other actuarial function appropriate to the administration and operation of Kentucky Access. Premium rates and rate schedules may be adjusted for appropriate factors, including but not limited to age and sex, and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices;

(5) Establish procedures under which applicants and participants in Kentucky Access shall have an internal grievance process and a mechanism for external review through an independent review organization;

(6) Select a third-party administrator in accordance with Section 6 of this Act;

(7) Require that all health benefit plans, riders, endorsements, or other forms and documents used to administer Kentucky Access meet the requirements of Subtitles 12, 14, 17, 17A, and 38 of this chapter as determined by the commissioner and require that all forms be submitted to and approved by the commissioner;

(8) Adopt nationally recognized uniform claim forms according to KRS 304.14-135;

(9) Develop and implement a marketing strategy to publicize the existence of Kentucky Access, including but not limited to eligibility requirements, procedures for enrollment, premium rates, and a toll–free telephone number to call for questions;

(10) Establish and review annually provider reimbursement rates that ensure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under Kentucky Access at least to the extent that such care and services are available to the general population. The department shall only authorize contracts with health care providers that prohibit the provider from collecting from the enrollee any amounts in excess of copayment amounts, coinsurance amounts, deductible amounts, and amounts for noncovered services;

(11) Conduct periodic audits to assure the general accuracy of the financial and claims data submitted to the department and be subject to an annual audit of its operations;

(12) Issue health benefit plans effective January 1, 2001, in accordance with the requirements of Sections 1 to 16 of this Act;

(13) Require a referral fee of fifty dollars ($50) to be paid to agents who refer applicants who are subsequently enrolled in Kentucky Access. The referral fee shall be paid only on the initial enrollment of an applicant. Referral fees shall not be paid on any enrollments of enrollees who have been previously enrolled in Kentucky Access, or for renewals for enrollees;

(14) Bill and collect premiums from enrollees in the amount determined by the department;

(15) Assess insurers in accordance with Section 11 of this Act;

(16) Reimburse GAP participating insurers for GAP losses pursuant to Section 11 of this Act;

(17) Establish a provider network for Kentucky Access by developing a statewide provider network or by contracting with an insurer for a statewide provider network. In the event the department contracts with an insurer, the department may take into consideration factors including, but not limited to, the size of the provider network, the composition of the provider network, and the current market rate of the provider network. The provider network shall be made available to the third-party administrator specified in Section 6 of this Act and shall be limited to Kentucky Access enrollees.

(18) Be audited by the Auditor of Public Accounts;

(19) By administrative regulation, amend the definition of high-cost conditions provided in Section 1 of this Act by adding other high-cost conditions;

(20) The department shall report to the Interim Joint Committee on Banking & Insurance the separation plan pursuant to Section 18 of this Act for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access on an annual basis; and

(21) Any other actions as may be necessary and proper for the execution of the department's powers, duties, and obligations under Sections 1 to 16 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the department may, through itself or third parties:

(1) Exercise any and all powers granted to insurers under this chapter; and

(2) Sue or be sued.

SECTION 5. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall select a third-party administrator, through the state competitive bidding process, to administer Kentucky Access. The third-party administrator shall be a licensed administrator by the department. The department shall consider criteria in selecting a third-party administrator that shall include, but not be limited to, the following:

(a) A third-party administrator's proven ability to demonstrate performance of the operations of an insurer to include the following: enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, quality improvement, drug utilization review, premium billing and collection, claims payment, and data reporting;

(b) The total cost to administer Kentucky Access;

(c) A third-party administrator's proven ability to demonstrate that Kentucky Access shall be administered in a cost-efficient manner;

(d) A third-party administrator's proven ability to demonstrate experience in two (2) or more states administering a risk pool for a minimum of a three (3) year period; and

(e) A third-party administrator's financial condition and stability.

(2) The department may contract with the third-party administrator for a period of four (4) years with an option for a two (2) year extension as approved by the department on a year-by-year contract basis. At least one (1) year prior to the expiration of the third-party administrator's contract, the department may solicit third-party administrators, including the current third-party administrator, to submit bids to serve as the third-party administrator for the succeeding four (4) year period.

(3) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:

(a) Develop and establish policies and procedures for enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, case management, disease management, quality improvement, drug utilization review, premium billing and collection, data reporting, and other responsibilities determined by the department;

(b) Develop and establish policies and procedures for paying the agent referral fee under Sections 1 to 16 of this Act;

(c) Develop and establish policies and procedures to ensure timely and efficient payment of claims to include, but not limited to, the following:

1. Develop and provide a claims billing manual to health care providers enrolled in Kentucky Access that includes information relating to the proper billing of a claim and the types of claim forms to use;

2. Payment of all claims in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder; and

3. Notification to an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility of a paid claim for deductible or coinsurance amounts;

(d) Issue denial letters under KRS 304.17A-540 for denial of preauthorization and precertification requests for medical necessity and medical appropriateness determinations;

(e) Submit information to the department under KRS 304.17A-330;

(f) Submit reports to the department regarding the operation and financial condition of Kentucky Access. The frequency, content, and form of the reports shall be determined by the department;

(g) Submit an annual report to the department three (3) months after the end of each calendar year. The annual report shall include:

1. Earned premium;

2. Administrative expenses;

3. Incurred losses for the year;

4. Paid losses for the year;

5. Number of enrollees enrolled in Kentucky Access by category of eligibility; and

6. Any other information requested by the department or commissioner; and

(h) Be subject to examination by the department under Subtitles 2 and 3 of this chapter.

(4) The third-party administrator shall be paid for necessary and reasonable expenses, as provided in the contract between

the department and the third-party administrator.

SECTION 6. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The schedule of rates, premium rates charged to enrollees, deductible amounts, copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be established by the department. Premium rates charged to enrollees are not intended to fully cover the cost of providing health care coverage to Kentucky Access enrollees, and any claims in excess of premium rates shall be covered by the Kentucky Access fund.

(2) Premium rates for health benefit plans provided under Kentucky Access shall bear a reasonable relationship to each other. Premium rates shall be varied based on age and gender. The initial premium rates for plan coverage shall not exceed one hundred fifty percent (150%) of the applicable individual standard risk rates, as established by the department. In no event shall premium rates exceed one hundred seventy-five percent (175%) of the rates applicable to individual standard risks.

(3) Premium rates for coverage issued by Kentucky Access shall be established annually by the department, using reasonable actuarial principles, and shall reflect anticipated experience and expenses for risks under Kentucky Access.

SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least two (2) insurers for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or

(c) The individual has a high-cost condition listed in Section 1 of this Act.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) The individual has, or is eligible for, on the date of application for coverage under Kentucky Access, substantially similar coverage under another individual, group, or association contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to October 1, 2000. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for group or association coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Except for covered benefits paid under the standard health benefit plan as specified in Section 10 of this Act, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the department; or

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section may be terminated.

SECTION 8. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) At least annually, the department shall evaluate and revise as necessary rates to be charged to Kentucky Access enrollees.

(2) Except as provided in Section 10 of this Act, the department may revise its health benefit plans, cost-sharing arrangements, plan delivery rules, schedule of benefits, rates, and cost-containment features provided under Kentucky Access at the time of the health benefit plan renewal as necessary to ensure that Kentucky Access maintains adequate

resources for continued operation.

SECTION 9. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Kentucky Access shall offer at least three (3) health benefit plans to enrollees which shall be similar to the health benefit plans currently being marketed to individuals in the individual market. One (1) plan shall be the standard health benefit plan, set forth in KRS 304.17A-250.

(2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least one (1) plan may be offered in a managed care form at such time as the Department can establish an appropriate provider network in available service areas.

(3) The department shall provide for utilization review and case management for all health benefit plans issued under Kentucky Access.

(4) The department shall review and compare health benefit plans provided under Kentucky Access to health benefit plans provided in the individual market. Based on the review, the department may amend or replace the health benefit plans issued under Kentucky Access.

(5) Individuals who apply and are determined eligible for health benefit plans issued under Kentucky Access shall have coverage effective the first day of the month after the application month.

(6) For eligible individuals, health benefit plans issued under Kentucky Access shall not impose any pre-existing condition exclusions. In all other cases, a pre-existing condition exclusion may be imposed in accordance with KRS 304.17A-230.

(7) Health benefit plans issued under Kentucky Access shall be guaranteed renewable except as otherwise specified in Section 8 of this Act and KRS 304.17A-240.

(8) All health benefit plans issued under Kentucky Access shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue under the same or a different contract.

(9) Health benefit plans issued under Kentucky Access shall coordinate benefits with other health coverage and be the payor of last resort.

(10) Except for the standard health benefit plan specified in subsection (1) of this section, health benefit plans issued under Kentucky Access shall offer health coverage provided for in subsection (1) of this section up to a lifetime limit of two million dollars ($2,000,000) per covered individual. The maximum limit under this subsection may be increased by the Department.

SECTION 10. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the other powers enumerated in Sections 1 to 16 of this Act, the department shall assess insurers in the amounts specified in this section. The assessment shall be used for the purpose of funding GAP losses incurred prior to September 30, 2002, and Kentucky Access.

(a) The amount of the assessment for each calendar year shall be as follows:

1. From each stop-loss carrier, an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

2. From all insurers, an amount based on the total amount of all health benefit plan premiums earned during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the annual assessment is based. The percentage rate used for the annual assessment shall be the same percentage rate as calculated in the GAP risk adjustment process for the six (6) month period of July 1, 1998, through December 31, 1998;

3. If determined necessary by the department, a second assessment may be assessed in the same manner as the annual assessment in subparagraph 2. of this paragraph; and

4. In no event shall the sum of the first assessment provided for in subparagraph 2. of this paragraph and the second assessment provided for in subparagraph 3. of this paragraph be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums earned during the prior assessment period;

(b) The first assessment shall be for the period from January 1, 2000, through December 31, 2000, and shall be paid on or before March 31, 2001. Subsequent annual assessments shall be paid on or before March 31 of the year following the assessment period.

(2) Every supporting insurer shall report to the department, in a form and at the time as the department may specify, the following information for the specified period:

(a) The insurer's total stop-loss premiums and health benefit plan premiums in the individual, small group, large group, and association markets; and

(b) Other information as the department may require.

(3) As part of the assessment process, the department shall establish and maintain the Kentucky Access fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors.

(4) The Kentucky Access fund shall be funded from the following sources:

(a) Premiums paid by Kentucky Access enrollees;

(b) The funds designated for Kentucky Access in the Kentucky Health Care Improvement fund;

(c) Appropriations from the General Assembly;

(d) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(e) Annual assessments from supporting insurers;

(f) A second assessment from supporting insurers;

(g) Gifts, grants, or other voluntary contributions;

(h) Interest or other earnings on the investment of the moneys held in the account; and

(i) Any funds remaining on October 1, 2000, in the guaranteed acceptance program account may be transferred to the Kentucky Access fund.

(5) The department shall determine on behalf of Kentucky Access the premiums, the expenses for administration, the incurred losses, taking into account investment income and other amounts needed to satisfy reserves, estimated claim liabilities, and other obligations for each calendar year. The department shall also determine the amount of the actual guaranteed acceptance program plan losses for each calendar year. The department shall assess insurers as follows:

(a) On or before March 31 of each year, the amount set forth in subsection (1)(a)1. and (1)(a)2. of this section.

(b) If the amount of actual guaranteed acceptance program plan losses exceeds the assessment provided for in paragraph (a) of this subsection, a second assessment shall be authorized under subsection (1)(a)3. of this section. If the amount of GAP losses exceeds the assessments provided under subsection (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, moneys received and available from the Kentucky Health Care Improvement Fund after the Department determines available funding for Kentucky Access for the current calendar year pursuant to subsection (6) of this section, shall be used to reimburse GAP participating insurers for any actual guaranteed acceptance program losses. If the amount of GAP losses exceeds the amount in the Kentucky Health Care Improvement Fund after reserving sufficient funds for Kentucky Access for the current year, each GAP participating insurer shall be reimbursed up to the amount of its proportional share of actual guaranteed acceptance program plan losses from the fund. Effective for any assessment on or after October 1, 2000, in calculating GAP losses, total premiums and total claims of the GAP participating insurer shall be used. Actual guaranteed acceptance program losses shall be calculated as the difference between the total GAP claims and the total GAP premiums on an aggregate basis.

(c) If GAP losses are fully covered by the assessment process provided for in under subsection (1)(a)1. and (1)(a)2. of this section and the second assessment provided for in subsection (1)(a)3. of this section is not necessary to cover GAP losses, and as determined by the department using reasonable actuarial principles Kentucky Access funding is needed, a second assessment provided for in subsection (1)(a)3. of this section shall be completed.

(6) After the end of each calendar year, GAP losses shall be reimbursed only after the department determines that appropriate funding is available for Kentucky Access for the current calendar year. GAP losses shall be reimbursed after reserving sufficient funds for Kentucky Access.

(7) With respect to a GAP participating insurer who reasonably will be expected both to pay assessments and to receive payments from the assessment fund, the department shall calculate the net amount owed to or to be received from the fund, and the department shall only collect assessments for or make payments from the fund based upon net amounts.

(8) Insurers paying an assessment may include in any health insurance rate filing the amount of these assessments as provided for in Subtitle 17A of this chapter.

(9) Insurers shall pay any assessment amounts authorized in Sections 1 to 16 of this Act within thirty (30) days of receiving notice from the department of the assessment amount.

(10) Any surpluses remaining in the Kentucky Access fund after completion of the assessment process for a calendar year shall be maintained for use in the assessment process for future calendar years and such funds shall not lapse. The general fund appropriations to the Kentucky Access fund shall not lapse.

(11) Assessments on health benefit plan premiums that are required under Sections 1 to 16 of this Act shall not be applied to premiums received by an insurer for state employees, Medicaid recipients, Medicare beneficiaries, and CHAMPUS

insureds.

(12) The department shall direct that receipts of Kentucky Access be held at interest, and may be used to offset future losses or to reduce plan premiums in accordance with the terms of Sections 1 to 16 of this Act. As used in this subsection, "future losses" may include reserves for incurred but not reported claims.

(13) The department shall conduct examinations of insurers reasonably necessary to determine if the information provided by the insurers is accurate.

(14) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

(15) The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

SECTION 11. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) After the end of each calendar year, a GAP participating insurer shall report the following information for the previous calendar year:

(a) The total earned premium in the individual, small group, large group, and association markets;

(b) The number of GAP policies in force as of December 31;

(c) The amount of the insurer's GAP premiums received during the calendar year covered by the report;

(d) The amount of the insurer's GAP claims paid during the calendar year covered by the report;

(e) The amount of the insurer's GAP losses; and

(f) Other information as the department may require to be reported.

(2) After the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the department shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of GAP premiums for all reporting insurers;

(c) The total amount of GAP claims paid by all reporting insurers;

(d) The amount of total actual GAP losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the department may elect to calculate and report.

The department shall complete its calculation and provide each insurer the results of its calculation within sixty (60) days after receiving all required information.

(3) The department shall pay GAP losses to GAP participating insurers in accordance with this section and subsection (5) of Section 11 of this Act.

(4) The department shall conduct examinations of insurers participating in Kentucky Access as are reasonably necessary to determine if the information provided by the insurers is accurate.

SECTION 12. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health benefit plan issued to a GAP qualified individual under the GAP program shall be renewed at the option of the enrollee, except for reasons in KRS 304.17A-240.

(2) Except as required to implement Sections 1 to 16 of this Act, the Guaranteed Acceptance Program shall be terminated effective January 1, 2001.

SECTION 13. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Kentucky Access and the department shall be exempt from all taxes levied by the state or any of its subdivisions.

SECTION 14. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sixty (60) days prior to the regular session of the General Assembly in the year 2002, and each subsequent regular session of the General Assembly thereafter, the department shall submit a written report to the Legislative Research Commission and provide a detailed briefing. The report shall contain an evaluation of Kentucky Access, an evaluation of issues concerning high-risk individuals, and other information as the department deems necessary.

(2) Beginning no later than June 30, 2001, and annually thereafter, the Auditor of Public Accounts shall audit Kentucky Access and within sixty (60) days of completion of the audit shall submit a copy of the audit to the Legislative Research

Commission and the Department of Insurance.

SECTION 15. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall promulgate administrative regulations necessary to carry out the provisions of Sections 1 to 16 of this Act.

(2) Kentucky Access shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(a) Subtitle 1;

(b) Subtitle 2;

(c) Subtitle 3;

(d) Subtitle 5;

(e) Subtitle 8;

(f) Subtitle 9;

(g) Subtitle 12;

(h) Subtitle 14;

(i) Subtitle 17;

(j) Subtitle 17A;

(k) Subtitle 25;

(l) Subtitle 38; and

(m) Subtitle 47.

Section 17. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(5) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals ***under KRS 304.17A-400 to***

304.17A-480;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program ***under KRS 304.17A-400 to 304.17A-480***;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program qualified individual" means an individual who***, on or before December 31, 2000***:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer***, on or before December 31, 2000,*** that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, ***on or before December 31, 2000,*** provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition" ***pursuant to the Kentucky Guaranteed Acceptance Program,*** means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(20) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(22) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the

preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(35) "Standard benefit plan" means the plan identified in KRS 304.17A-250.

Section 18. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of ***nine (9)***[~~seven (7)~~] members: the commissioner plus ***eight (8)***[~~six (6)~~] persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The ***eight (8)***[~~six (6)~~] persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; [~~and~~]

(c) Two (2) representatives of purchasers of health benefit plans***; and***

(d) Two (2) representatives of agents.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; [~~and~~]

(e) ***Advise the Department of Insurance concerning the Department of Insurance's separation plan for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access;***

(f) Review and discuss issues that impact Kentucky Access; and

(g) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(19) and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions. ***After January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the Department for Kentucky Access and report to the commissioner any and all recommended changes.***

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 19. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate***, except that the premium rates charged to an individual shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001***.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ***twenty***[~~ten~~] percent ***(20%)***[~~(10%)~~] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) [~~(a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.~~

~~(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until April 10, 1998, for a new rating period:~~

~~1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after April 10, 1998. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under KRS 304.17A-400 shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;~~

~~2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after April 10, 1998; and~~

~~3. Shall be subject to subsection (2) of this section on the fourth renewal date after April 10, 1998, and thereafter.~~

~~(4)~~]The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate***, except that the premium rate charged to a small group or association shall not vary from the index rate by more than forty percent (40%) for two (2) consecutive years beginning January 1, 2001***.

(4)[~~(5)~~]The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ***twenty***[~~fifteen~~] percent ***(20%)***[~~(15%)~~] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(5)[~~(6)~~]In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(6)[~~(7)~~]Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(7)[~~(8)~~]The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(c) Notwithstanding any other provision of this subsection, beginning January 1, 2001, an insurer may establish a separate class of business for the purpose of separating guaranteed acceptance program qualified individuals from other individuals enrolled in their plan prior to January 1, 2001. The index rate for the separate class

created under this paragraph shall be established taking into consideration expected claims experience and administrative costs of the new class of business and the previous class of business.

(8)~~[(9)]~~For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(9)~~[(10)]~~ Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(10)~~[(11)]~~ Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 20. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of ~~[paragraphs (a) and (b) of]~~this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured***, except as provided in Sections 1 to 16 of this Act***.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program ***or to Kentucky Access,*** or to arrange for an individual employee to apply to ***either***~~[that]~~ plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(5) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under ***Section 11 of this Act***~~[KRS 304.17A-470]~~. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(6) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Section 21. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the ~~[individual or]~~small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200~~[and 304.17A-210]~~. ***As a condition of doing business in the individual market on or after January 1, 2001, a health insurer shall offer the standard health benefit plan.*** Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit

plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, ~~[304.17A-210,]~~304.17A-220, 304.17A.230, and 304.17A-240.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual

health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an ***applicant or*** insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program ***until October 1, 2000***, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program. ***On or after October 1, 2000, the denial letter shall include a description of Kentucky Access and the name and telephone number of a contact person who can provide additional information about Kentucky Access for any reason an insurer refuses to issue a policy.***

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(14) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 22. KRS 304.17A-260 is amended to read as follows:

An insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after ***the effective date of this Act***~~[April 10, 1998]~~, until January 1, ***2001***~~[1999]~~, for approval to reenter Kentucky, and if the commissioner grants approval the insurer may engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 163. KRS 304.17A-320 is amended to read as follows:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a) All assessments placed on insurers under ***Section 11 of this Act***~~[KRS 304.17A-460]~~;

(b) All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;

(c) All rate review requirements placed on insurers under this subtitle;

(d) All data collection requirements placed on insurers under this subtitle; and

(e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220."

On page 1, line 1 after "SECTION" by deleting "1." and by inserting "24." in lieu thereof;

On page 1, after line 7 by adding:

"Section 25. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; and

(e) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(19) ~~[and 304.17A-280]~~ and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 26. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers, shall submit a copy of the filing to the Attorney General, and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17A-460 ***ending December 31, 2000, and beginning January 1, 2001, and Section 11 of this Act***; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) *Notwithstanding (2)(a) to (e) of this section, beginning January 1, 2001, premium rates may be used upon filing with the department of a policy form not previously used if the filing is accompanied by the policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. An insurer may not elect to use the filing procedure in this subsection for a policy form that does not contain the minimum loss ratio guarantee. Insurers may not amend policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.*

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy forms;

4. A step-by-step description of the process used to develop the experience loss ratio, including demonstration with supporting data;

5. A guarantee of a specific lifetime minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue. The audit shall demonstrate the calculation of the actual Kentucky loss ratio in a manner prescribed as set forth in administrative regulations promulgated by the commissioner.

(c) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form during the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky State Treasury.

(f) None of the provisions of subsections (2) and (3) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection. Such filings shall be deemed approved. Each insurer paying a risk assessment under KRS 304.17A-460 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(g) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member or subscriber as prescribed by the commissioner an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(h) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percent of premium on an aggregate basis to be refunded if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than ten dollars ($10).

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. ***Beginning January 1, 2001, when determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments. For purposes of determining the loss ratio for any loss ratio guarantee pursuant to this Act, the commissioner may examine the insurer's expenses for preferred provider organization, case management, utilization review, and reinsurance used by the insurer in calculating the loss ratio guarantee for reasonableness. Only those expenses found to be reasonable by the commissioner may be used by the insurer for determining the loss ratio for purposes of any loss ratio guarantee.***

Section 27. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program***, or Kentucky Access,*** or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(5) ~~[The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17A-470. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.~~

~~(6)~~] The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Section 28. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200 and 304.17A-210. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) [~~The standard health benefit plan shall be defined so that it meets the requirements of KRS 304.17A-430 for inclusion in calculating assessments and refunds under the guaranteed acceptance program.~~

~~(4)~~] Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(4)[~~(5)~~]Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, 304.17A-210, 304.17A-220, 304.17A.230, and 304.17A-240.

(5)[~~(6)~~]Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(6)[~~(7)~~](a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(7)[~~(8)~~]All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(8)[~~(9)~~]All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(9)[~~(10)~~] Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with

providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(10)[~~(11)~~] A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(11)[~~(12)~~] Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

(12)[~~(13)~~] If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(13)[~~(14)~~] No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 29. KRS 304.17A-290 is amended to read as follows:

(1) Coverage of an individual who is not a state employee or a small group which on April 10, 1998, is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after April 10, 1998.

(2) The state employee health insurance fund established under KRS 18A.2281 shall be deemed an insurer as defined in KRS 304.17A-005 only for the coverage it provides to individuals not state employees or to small groups and only until such time as this coverage terminates in accordance with subsection (1) of this section.

(3) [~~The state employee health insurance fund established under KRS 18A.2281 shall be subject to assessments and reimbursements under KRS 304.17A-400 to 304.17A-480 only for the premium collected and the claims paid for individuals who are not state employees and the small groups which are covered by the fund.~~

~~(4)~~] Except as provided in this section, the state employee health insurance fund established under KRS 18A.2281 shall not be deemed an insurer for any other purpose in this chapter and, in no event, at any time more than twelve (12) months after April 10, 1998, shall it be deemed to be an insurer.

Section 30. KRS 304.17A-320 is amended to read as follows:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a) [~~All assessments placed on insurers under KRS 304.17A-460;~~

~~(b)~~] All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;

(b)[~~(c)~~]All rate review requirements placed on insurers under this subtitle;

(c)[~~(d)~~]All data collection requirements placed on insurers under this subtitle; and

(d)[~~(e)~~]Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

Section 31. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 7 -- Investments;
(4) Subtitle 8 -- Administration of Deposits;
(5) Subtitle 12 -- Trade Practices and Frauds;
(6) Subtitle 25 -- Continuity of Management;
(7) Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(8) Subtitle 18 -- KRS 304.18-110, 304.18-120 -- Group Conversion and KRS 304.18-045;
(9) Subtitle 4 -- Fees and Taxes;
(10) Subtitle 99 -- Penalties;
(11) Subtitle 14 -- KRS 304.14-500 to 304.14-560; ~~[and]~~
(12) Subtitle 17A -- Health Benefit Plans***; and***
(13) Subtitle 17B --Kentucky Access.

Section 32. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 3 -- Authorization of Insurers and General Requirements;
(4) Subtitle 4 -- Fees and Taxes;
(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;
(6) Subtitle 6 -- Assets and Liabilities;
(7) Subtitle 7 -- Investments;
(8) Subtitle 8 -- Administration of Deposits;
(9) Subtitle 12 -- Trade Practices and Frauds;
(10) Subtitle 14 -- KRS 304.14-500 to 304.14-560;
(11) Subtitle 17A -- Health Benefit Plans;
(12) ***Subtitle 17B – Kentucky Access;***
(13) Subtitle 25 -- Continuity of Management;
(14)~~[(13)]~~ Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(15)~~[(14)]~~ Subtitle 37 -- Insurance Holding Company Systems; and
(16)~~[(15)]~~ Subtitle 99 -- Penalties.

Section 33. The following KRS sections are repealed:

304.17A-210 Guaranteed-issue basis of individual market plans -- Guidelines -- Exceptions.
304.17A-280 Additions to high-cost conditions list -- Hearing.
304.17A-400 Guaranteed Acceptance Program -- Nondiscrimination in provider payment -- Participation by insurer as condition to do business.
304.17A-410 Definitions for KRS 304.17A-400 to 304.17A-480.
304.17A-420 Participating insurer -- Written notification of program status -- Program participating insurer requirements -- Exemptions.
304.17A-430 Criteria for program plan -- Alternative underwriting.
304.17A-440 Premium -- Limitations.
304.17A-450 Cost-containment feature requirement for program plans.
304.17A-460 Insurer annual reports -- Department calculations and notification to insurer -- Assessments and refunds -- Stop-loss carrier -- Examinations of participating insurers.
304.17A-470 Risk adjustment process -- Program account -- Funding -- Calculation of losses -- Assessments.
304.17A-480 Report to Legislative Research Commission -- Audit.

Section 34. Sections 8, 9, 10, 11, 12, 20, and 21 of this Act take effect January 1, 2001.

Section 35. Sections 25 to 32 of this Act take effect January 1, 2003."

The Senate Floor Amendment No. 2 Title to **HB 517** is as follows:

By amending the title to read as follows:

"AN ACT relating to health insurance."

Representative Bratcher moved that the House refuse to concur in the Senate Floor Amendment No. 1 to **HB 517**. Agreed.

On the roll call the vote was: **Yeas 55, Nays 38**. (See March 28, 2000 roll call on the motion that the House refuse to concur in the Senate Floor Amendment No. 1 to **HB 517** - Appendix.)

The motion that the House refuse to concur in the Senate Floor Amendment No. 1 to **HB 517** was adopted.

Representative Bratcher moved that the House refuse to concur in the Senate floor Amendment No. 2 Title to **HB 517**. Agreed.

Representative Stumbo moved that the rules be suspended to allow a Free Conference Committee to be appointed on **HB 517** if the Senate refuses to recede from its amendments. Agreed.

HB 992, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 992** is as follows:

HB 992, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and

chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an~~[arbitrator or]~~ administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 2. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits. In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee. The employer, insurer, or payment obligor acting on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of the services within thirty (30) days of receipt of a statement for services. The commissioner shall promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered. Except as provided in subsection (4) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.

(3) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(4) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.

(i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.

(5) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(6) When a compensable injury or occupational disease results in the amputation of an arm, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces as may reasonably be required at the time of the injury and thereafter during disability.

(7) Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge[~~ or arbitrator~~] by affidavits or testimony that, because of the physician selected by the employee to treat the injury or disease, or because of the hospital selected by the employee in which treatment is being rendered, that the employee is not receiving proper medical treatment and the recovery is being substantially affected or delayed; or that the funds for medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge[~~ or arbitrator~~] may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for the injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(8) An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund,[~~ arbitrator,~~] or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury or disease for which the employee claims compensation.

(9) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

Section 3. KRS 342.033 is amended to read as follows:

In a claim for benefits, no party may introduce direct testimony from more than two (2) physicians without prior consent from the[~~ arbitrator or~~] administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a physician through a written medical report. The report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of the report and to cross-examine the reporting physician. The commissioner shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 4. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid, except that if the[~~ arbitrator or~~] administrative law judge determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, the rate of interest shall be eighteen percent (18%) per annum. In no event shall income benefits be instituted later than the fifteenth day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer's insurance carrier or other party responsible for the payment of workers' compensation benefits should terminate or fail to make payments when due, that party shall notify the commissioner of the termination or failure to make payments and the commissioner shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.

(2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the[~~ arbitrator or~~] administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.

(3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the~~[arbitrator or]~~ administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

(4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his last known address.

Section 5. KRS 342.090 is amended to read as follows:

Payment of death benefits in good faith to a supposed dependent or to a dependent subsequent in right to another or other dependents shall protect and discharge the employer and insurer unless and until the lawful dependent or dependents prior in right have given the employer or insurer written notice of his or their claim. In case the employer or insurer is in doubt as to who are dependents or as to their respective rights, the~~[arbitrator or]~~ administrative law judge shall, on application, decide and direct to whom payment shall be made, and payment made under such direction shall release the employer and insurer from all liability. If an appeal is taken from the order of the~~[arbitrator or]~~ administrative law judge directing payment, persons receiving payment under such order shall furnish bond for the protection of adverse claimants pending the outcome of the proceedings.

Section 6. KRS 342.120 is amended to read as follows:

(1) There is created the Division of the Special Fund in the Department of Workplace Standards which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The Division of the Special Fund shall be headed by a director appointed by the commissioner, with the prior written approval of the Governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) The special fund shall have no liability upon any claim in which the injury occurred, or for cumulative trauma, the disability became manifest, or, for occupational disease, if the date of injury or last exposure occurred, after December 12, 1996.

(3) Where the employer has settled its liability for income benefits and thereafter a determination has been made of the special fund's liability, the special fund portion of the benefit rate shall be paid over the maximum period provided for by statute for that disability, with the period of payment beginning on the date settlement was approved by an administrative law judge~~[or arbitrator]~~. This provision is remedial and shall apply to all pending and future claims.

Section 7. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an~~[arbitrator's or]~~ administrative law judge's own motion, an~~[arbitrator or]~~ administrative law judge may reopen and review any award or order on any of the following grounds:

(a) Fraud;

(b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;

(c) Mistake; and

(d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for determination of the compensability of medical expenses, fraud, or conforming the award as set forth in KRS 342.730(1)(c)2., or for reducing a permanent total disability award when an employee returns to work, ***or seeking temporary total disability benefits during the period of an award,*** no claim shall be reopened more than four (4) years following the date of the original award or order granting or denying benefits,~~[or within two (2) years of such award or order,]~~ and no party may file a motion to reopen within ***one (1) year***~~[two (2) years]~~ of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the~~[arbitrator or]~~ administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The~~[arbitrator or]~~ administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the~~[arbitrator or]~~ administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the~~[arbitrator or]~~ administrative law judge may review an

award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the[~~ arbitrator or~~] administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the[~~ arbitrator or the~~] administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.

Section 8. KRS 342.160 is amended to read as follows:

(1) The benefits in case of death shall be paid to one (1) or more dependents of the deceased employee for the benefit of all the dependents entitled thereto, as determined by the[~~ arbitrator or~~] administrative law judge. The dependents to whom payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of a mentally disabled person shall be paid to his guardian or conservator.

(2) If the dependents are a widow, widower, or other head of a family of minor children and one (1) or more minor children, it shall be sufficient for the widow, widower, or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the guardian, conservator, or next friend of such dependents.

Section 9. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the employee, if requested by a party or by the[~~ arbitrator or~~] administrative law judge, shall submit himself to examination, at a reasonable time and place, to a duly-qualified physician or surgeon designated and paid by the requesting party. The employee shall have the right to have a duly-qualified physician or surgeon designated and paid by himself present at the examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employee at all reasonable times and under all reasonable conditions.

(2) The party requesting an examination pursuant to subsection (1) of this section shall make arrangements to provide all the cost of the examination. The requesting party shall also prepay the cost of transportation of the employee to and from the examination if public transportation is utilized. If the employee uses his own vehicle to travel to and from the examination, the requesting party shall prepay the employee at the state mileage rate. The requesting party shall also reimburse the employee for the cost of meals, lodging, parking, and toll charges upon proof of same by written voucher. The amounts prepaid or reimbursed by the requesting party, as required by this subsection, shall be the same as, and in accordance with, state travel administrative regulations and standards promulgated and established pursuant to KRS Chapter 45.

(3) If an employee refuses to submit himself to or in any way obstructs the examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(4) Any employee receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and other supporting information the[~~ arbitrator or~~] administrative law judge may require.

(5) The department shall supply forms for the report.

Section 10. KRS 342.213 is amended to read as follows:

(1) The Governor shall make all appointments to the board, ***and*** appoint the administrative law judges[~~, arbitrators,~~] and the

commissioner of the Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him by the Workers' Compensation Nominating Commission.

(2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(d) The members shall annually select a chairman of the nominating commission.

(3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.

(4) The commissioner shall monitor the workload of the administrative law judges~~[and arbitrators]~~ and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges~~[and arbitrators]~~, and when a vacancy occurs under other circumstances, the commissioner shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the commissioner.

(5) (a) The Workers' Compensation Nominating Commission shall consult with the commissioner, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of ***the*** administrative law judges~~[and arbitrators]~~. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge~~[or arbitrator]~~, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the commissioner of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the commissioner's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge~~[or arbitrator]~~ shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge~~[and as an arbitrator]~~.

(b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.

(6) The Governor shall appoint the commissioner of the Department of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The commissioner shall be subject to Senate confirmation in accordance with KRS 11.160.

(7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.

(b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.

(8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars ($100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

Section 11. KRS 342.215 is amended to read as follows:

(1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.

(2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.

(3) ***Of the members of the board appointed under this section, one (1) shall serve a term that shall expire on January 4, 2002; one (1) shall serve a term that shall expire on January 4, 2003; and one (1) shall serve a term that shall expire on January 4, 2004, as designated by the Governor at the time of appointment. Thereafter,*** each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his position prior to the expiration of his term. The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.

(4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.

(5) Members of the Workers' Compensation Board~~[, arbitrators,]~~ and the administrative law judges shall be members of the Kentucky Employees Retirement System.

~~[(6) The Workers' Compensation Board is abolished effective on July 1, 2000, and as of midnight, June 30, 2000, the terms of all Workers' Compensation Board members shall end. Thereafter, appeals from the final orders of administrative law judges shall be directed to the Court of Appeals under the same standards set forth in this chapter for appeals to the Workers' Compensation Board.]~~

Section 12. KRS 342.230 is amended to read as follows:

(1) The commissioner, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the department's work. The employees of the Department of Workers' Claims, except the commissioner,~~[arbitrators,]~~ administrative law judges, and board members, shall be members of the classified service.

(2) The commissioner of the Department of Workers' Claims shall have immediate supervision of the employees of the department, perform duties assigned him, and have complete authority to carry out all the administrative functions relating to the Department of Workers' Claims. The commissioner with the assistance of the board shall train and instruct the administrative law judges~~[and arbitrators]~~ on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges~~[, arbitrators,]~~ and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board ***and***~~[,]~~ the administrative law judges~~[, and arbitrators]~~; annually report the activities of the board ***and the***~~[,]~~ administrative law judges~~[, and arbitrators]~~ to the Governor; and devote his full time to the duties of his office. The commissioner shall be paid a salary not less than the salary of a member of the board.

(3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than sixteen (16) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law or a related field, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.~~[To carry~~

~~out the intent of this chapter and to implement its provisions, the commissioner shall have the authority to assign the duties of an arbitrator to an administrative law judge who shall work in that capacity as deemed necessary by the commissioner.]~~

(4) To ensure that the administrative law judges~~[and arbitrators]~~ perform their responsibilities competently and issue decisions consistent with this chapter, the commissioner shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.

(5) The Governor may at any time remove the commissioner or any member of the board. The commissioner may remove any administrative law judge~~[or arbitrator]~~. A member of the board or an administrative law judge~~[or an arbitrator]~~ may be removed for good cause including: violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge~~[, an arbitrator,]~~ or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by this section.

(6) Any vacancy in the term of an administrative law judge~~[or an arbitrator]~~, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.

(7) (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.

(8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the commissioner by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars ($3,000) per year. At any time the commissioner may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the commissioner shall employ a person in this position for a four (4) year term.

~~[(9) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years except as set forth in subsection (11) of this section, not more than eight (8) arbitrators, each of whom shall have extensive knowledge in workers' compensation law and shall be paid the same salary as a District Judge. Each arbitrator may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an arbitrator, shall provide the name of the individual he intends to appoint to the position to the chairman of the Senate Economic Development and Labor Committee. The arbitrators shall conduct benefit review conferences, shall supervise the presentation of evidence, and shall render final decisions, orders, and awards. Arbitrators may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented as will expedite the preparation of the case.~~

~~(10) One (1) of the arbitrators appointed pursuant to this section shall be appointed chief arbitrator and in addition to the duties otherwise assigned arbitrators shall assist the commissioner in the scheduling of the activities of the arbitrators and in the supervision and training of arbitrators. The chief arbitrator shall be paid the same rate as the arbitrators plus an additional two thousand dollars ($2,000) per year. At any time, the commissioner may replace the chief arbitrator with one (1) of the other arbitrators at which time the former chief arbitrator shall resume the duties assigned to the other arbitrators pursuant to this chapter.~~

~~(11) (a) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1997. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.~~

~~(b) The terms of four (4) arbitrators appointed pursuant to this section shall end at midnight, December 31, 1999. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are~~

~~necessary to fulfill the duties assigned to arbitrators pursuant to this chapter.~~]

Section 13. KRS 342.240 is amended to read as follows:

The department shall maintain its main office in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The commissioner shall provide necessary supplies, books, periodicals, and maps and shall provide a seal for the authentication of orders, awards, or proceedings of the[~~ arbitrators and~~] administrative law judges, on which shall be inserted the words "Department of Workers' Claims, State of Kentucky, official seal." The board[~~, the arbitrators,~~] and the administrative law judges may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the commissioner, all actions or proceedings against the board or a member in his official capacity, or against an[~~ arbitrator or~~] administrative law judge or the commissioner in his official capacity shall be brought in the courts of Franklin County.

Section 14. KRS 342.245 is amended to read as follows:

All proceedings of the board[~~, arbitrators,~~] and the administrative law judges shall be recorded in books kept for that purpose by the commissioner, which shall constitute a public record and shall contain an entry of each case, claim, or proceeding considered, heard or passed upon by each[~~ arbitrator,~~] administrative law judge[~~,~~] and the board, with the award, finding or decisions made thereon.

Section 15. KRS 342.260 is amended to read as follows:

(1) The commissioner shall prepare administrative regulations as he considers necessary to carry on the work of the department and the work of the[~~ arbitrators and~~] administrative law judges and may promulgate administrative regulations not inconsistent with this chapter and KRS Chapter 13A for carrying out the provisions of this chapter.

(2) The commissioner shall develop or adopt life expectancy tables for use in making computations for the apportionment of benefits under KRS 342.120, computation of attorneys' fees under KRS 342.320, and for use in all other situations arising under this chapter in which the calculation of a life expectancy is necessary or desirable, including the computation of assessments or reserves for self-insurers. The commissioner may adopt life tables published by the United States Department of Health and Human Services or other life tables developed by a qualified entity, as determined by the commissioner. The life tables designated by the commissioner through administrative regulation in effect as of the date of an opinion, award, or settlement approved by an[~~ arbitrator or~~] administrative law judge shall apply to computations concerning that opinion, award, or settlement.

(3) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof or any[~~ arbitrator or~~] administrative law judge for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths, and examine or cause to have examined those parts of the books and records of the parties to a proceeding as relate to questions in dispute.

(4) The sheriff shall serve all subpoenas of the board[~~, arbitrators,~~] and administrative law judges and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to the subpoena of the board or any[~~ arbitrator or~~] administrative law judge shall receive for attendance the fees and mileage for witnesses in civil cases in the Circuit Courts.

(5) The Circuit Court shall, on application of the board, any member thereof, or any[~~ arbitrator or~~] administrative law judge, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 16. KRS 342.265 is amended to read as follows:

(1) If the employee and employer and special fund or any of them reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement signed by the parties or their representatives shall be filed with the commissioner, and, if approved by an[~~ arbitrator or~~] administrative law judge, shall be enforceable pursuant to KRS 342.305. Where all parties have not joined in the settlement agreement, it shall not be approved unless it is certified that the party not participating in the settlement has been served with a copy of the agreement not less than ten (10) days prior to submission of the agreement for approval. This provision shall not be construed to prevent the voluntary payment of compensation for the periods and in the amounts prescribed by this chapter, but nothing shall operate as a final settlement except a memorandum of agreement filed with the commissioner and approved by the[~~ arbitrator or~~] administrative law judge. Upon claims settled after December 12, 1996, the special fund shall have the option of settling its liability for income benefits on the same terms as those reached between the employee and employer. Notice of the special fund exercise of the option granted in this subsection shall be made by letter of the director of the special fund mailed to the parties within ten (10) days of receipt by the director of a copy of the agreement.

(2) Settlement agreements concluded after ***the effective date of this Act***[~~March 31, 1997~~], providing for commuted lump-sum payment of future income benefits which would otherwise be payable in amounts greater than ***one hundred***[~~ten~~] dollars ***($100)***[~~($10)~~] per week shall not be approved unless there is reasonable assurance that the worker will have an adequate source of income during disability. This subsection is remedial and applies to all pending and future claims.

(3) Upon lump-sum settlement of future periodic payments, the discount rate used in the calculation of the settlement amount

shall not exceed a reasonable amount fixed by the commissioner. For settlements approved after December 12, 1996, until December 31, 1997, the true discount rate shall be six percent (6%) compounded annually on each payment. Before January 1 of each year commencing in ***2001***~~[1998]~~, the commissioner shall fix the discount rate to be utilized in the succeeding year based ***at one-half of one percent (0.5%) below***~~[upon]~~ the interest rate paid upon ten (10) year United States Treasury Notes as of ***August***~~[July]~~ 1 of the preceding year.

(4) If the parties have previously filed an agreement which has been approved by the administrative law judge~~[or arbitrator]~~, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.

(5) An application for resolution of claim shall be held in abeyance during any period voluntary payments of income benefits are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

Section 17. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) Except with respect to claims for benefits by reason of coal workers' pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an ***administrative law judge***~~[arbitrator]~~ for benefit review. The ***administrative law judge***~~[arbitrator]~~ shall facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

(3) ~~[(a)]~~The ***administrative law judge***~~[arbitrator]~~ shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation. ***During benefit review proceedings, the administrative law judge shall confer informally with the parties at issue for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the resolution of the claim. If agreement on any matter is reached, the administrative law judge shall write a memorandum setting forth the matters agreed upon. The administrative law judge and all parties shall sign the memorandum, and the administrative law judge shall file it with the commissioner. Once filed, the memorandum shall become part of the record.***

~~[(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.~~

~~(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.~~

~~(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.]~~

(4)~~[(6)]~~Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.

(5)~~[(7)]~~Within one hundred twenty (120) days of ***the effective date of this Act***~~[December 12, 1996]~~, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.

Section 18. KRS 342.275 is amended to read as follows:

(1) ***If benefit review proceedings do not result in settlement or resolution of the claim,*** ~~[Within thirty (30) days after the filing of the benefit review determination with the commissioner, any party may appeal that determination by filing a request for hearing before an administrative law judge. Proceedings before the administrative law judge shall be de novo but subject to penalties for unreasonable proceedings under KRS 342.310.~~

~~(2)]~~the commissioner shall promptly issue notice of the assignment of the claim to an administrative law judge, time for presentation of proof and of the time and place of a hearing.~~[The administrative law judge may confer informally with the parties for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposition of the case.]~~

(2)[~~(3)~~]The administrative law judge may grant continuances ***or grant or deny any benefit afforded under this chapter, including interlocutory relief,*** according to criteria established in administrative regulations promulgated by the commissioner. The administrative law judge shall render the award, order, or decision within ***ninety (90)***[~~sixty (60)~~] days following the final hearing unless extension is mutually agreed to by all parties. The award, order, or decision, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order, or decision shall immediately be sent to the parties in dispute.

Section 19. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order, or decision any party may file a petition for reconsideration of the award, order, or decision of the[~~ arbitrator or~~] administrative law judge. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The administrative law judge shall be limited in the review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make any correction within ten (10) days after submission.

Section 20. KRS 342.305 is amended to read as follows:

Any party in interest may file in the Circuit Court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the[~~ arbitrator or~~] administrative law judge, or of an order or decision of the[~~ arbitrator,~~] administrative law judge[~~,~~] or board, or of an award of the[~~ arbitrator or~~] administrative law judge unappealed from, or of an award of the board rendered upon an appeal whether or not there is a motion to reopen or review pending under KRS 342.125. The court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though it had been rendered in a suit duly heard and determined by that court. Any such judgment, unappealed from or affirmed on appeal or modified in obedience to the mandate of the Court of Appeals, shall be modified to conform to any decision of the[~~ arbitrator or~~] administrative law judge ending, diminishing, or increasing any weekly payment under the provisions of KRS 342.125 upon a presentation to it of a certified copy of such decision.

Section 21. KRS 342.310 is amended to read as follows:

(1) If any[~~ arbitrator,~~] administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, he or it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted, or defended them.

(2) If any[~~ arbitrator,~~] administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that a party has committed acts in violation of KRS 342.335(1) or (2), that party may be ordered to make restitution for any compensation paid as a result of the commission of such acts.

Section 22. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by[~~ arbitrators and~~] administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When[~~ arbitrators or~~] administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner[~~, an arbitrator,~~] or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for Health Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a

timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

Section 23. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator; and

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, or a diagnosis of the disease is first communicated to him, whichever shall first occur.

(3) The procedure for filing occupational disease claims shall be as follows:

(a) The application for resolution of claim shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting his claim. This medical report shall be made on the basis of clinical or X-ray examination performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The report shall be made by a duly-licensed physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.

1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination as well as spirometric tests when pulmonary dysfunction is alleged.

2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.

(b) To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:

1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

2. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of

the spirometric test values contained in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

4. The procedure for determination of occupational disease claims shall be as follows:

    a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.

    b. The commissioner shall assign the claim to an ***administrative law judge***[~~arbitrator~~] and shall promptly refer the employee to such physician or medical facility as the commissioner may select for examination. The report from this examination shall be provided to all parties of record. The employee shall not be referred by the commissioner for examination within two (2) years following any prior referral for examination for the same disease.

    c. Within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial.

    d. The ***administrative law judge***[~~arbitrator~~] shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.

    e. Unless a voluntary settlement is reached by the parties, the ***administrative law judge***[~~arbitrator~~] shall issue a written determination within ninety (90) days following assignment of the claim. The written determination shall address all contested issues and shall be enforceable under KRS 342.305.

5. The procedure for appeal from a determination of an ***administrative law judge***[~~arbitrator~~] shall be as set forth in KRS 342.275.

(4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or if the incurrence of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(5) The amount of compensation payable for disability due to occupational disease or for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:

(a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and

(c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).

(6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the

employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a marriage existing at the beginning of such disability.

(9) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.

(10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided in this chapter.

(11) (a) Income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in whose employment the employee was last exposed to the hazard of that occupational disease.

(b) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.

(12) A concluded claim for benefits by reason of contraction of coal workers' pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.

Section 24. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge~~[or arbitrator]~~ pursuant to the statutes and administrative regulations.

(2) ***In an original claim,*** attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:

(a) Twenty percent (20%) of the ***first twenty-five thousand dollars ($25,000) of the*** award***, fifteen percent (15%) of the next ten thousand dollars ($10,000), and five percent (5%) of the remainder of the award,*** not to exceed ***a maximum fee of twelve thousand dollars ($12,000)***~~[two thousand dollars ($2,000) for services performed up to and including the date of a written determination by the arbitrator]~~. This fee shall be paid by the employee from the proceeds of the award or settlement.

(b)~~[Upon an appeal by an employee from a written determination of an arbitrator or an award or order of an administrative law judge, a fee to be fixed by the administrative law judge upon consideration of the extent, quality, and complexity of services not to exceed twenty percent (20%) of the first twenty-five thousand dollars ($25,000) of any increased income benefits awarded, ten percent (10%) of the next fifteen thousand dollars ($15,000) of increased income benefits, and five percent (5%) of the remainder of the additional income benefits awarded and not to exceed in all ten thousand dollars ($10,000). This fee shall be paid by the employee from the proceeds of the award or settlement and shall be in addition to the fee, if any, awarded under paragraph (a) of this subsection.~~

~~(c) Upon an appeal by an employer or carrier from a written determination of an arbitrator or an award or order of an administrative law judge, if the employer or carrier does not prevail upon appeal, the administrative law judge shall fix an attorney's fee to be paid by the employer or carrier for the employee's attorney upon consideration of the extent, quality, and complexity of the services rendered not to exceed five thousand dollars ($5,000) per level of appeal. This attorney's fee shall be in addition to any fee awarded under paragraphs (a) and (b) of this subsection.~~

~~(d)]~~ Attorney-client employment contracts entered into and signed ***after the effective date of this Act shall***~~[prior to December 12, 1996, for injuries or date of last exposure occurring prior to December 12, 1996, shall not]~~ be subject to the conditions of ***paragraph***~~[paragraphs]~~ (a)~~[, (b), and (c)]~~ of this subsection~~[, and the law existing at the date of the injury or last exposure to the hazards of an occupational disease shall apply]~~.

(3) In approving an allowance of attorney's fees, the administrative law judge~~[or arbitrator]~~ shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court.~~[The date of injury or last exposure shall control the applicable maximum attorney's fee.]~~

(4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the~~[arbitrator or]~~ administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the ***claim***~~[written determination of an arbitrator or last appealable order of an administrative law judge]~~. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:

(a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or

(b) The~~[arbitrator or]~~ administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

(5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

(6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge~~[and arbitrator]~~ shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the~~[arbitrator or]~~ administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the~~[arbitrator or]~~ administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)***(a)***~~[(b)]~~ of this section applicable to any additional amount recovered.

(8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge~~[or arbitrator]~~ in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the ***limitation of twelve thousand dollars ($12,000)***~~[same limitations as to]~~ maximum fees~~[at each level]~~ except that fees for~~[representation before administrative law judges shall not exceed ten thousand dollars ($10,000) and fees for representation before arbitrators shall not exceed two thousand dollars ($2,000). Fees for]~~ representing employers shall not be dependent upon the result achieved. ***Employer attorney's fees may be paid on a periodic basis while a claim is adjudicated and the payments need not be approved until the claims resolution process is completed.*** Fees for legal services in presenting a claim for reimbursement to the director of the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars ($1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

~~[(9) Notwithstanding any provisions of law to the contrary, the provisions of this chapter shall not be construed or interpreted to prohibit nonattorney representation of injured workers covered by this chapter.]~~

Section 25. KRS 342.325 is amended to read as follows:

All questions arising under this chapter, if not settled by agreement of the parties interested therein, with the approval of the~~[arbitrator or]~~ administrative law judge, shall be determined by the~~[arbitrator or]~~ administrative law judge except as otherwise provided in this chapter.

Section 26. KRS 342.435 is amended to read as follows:

Annually on or before the fifteenth day of December, the commissioner shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by the board and each~~[arbitrator and]~~ administrative law judge, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, together with any other information which the commissioner deems proper to call to the attention of the

Governor, including any recommendations he may have to make, and it shall be the duty of the commissioner to publish and distribute among employers and employees any general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to the provisions of the general laws governing public printing applicable thereto.

Section 27. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against the other person to recover damages, or proceed both against the employer for compensation and the other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against the other person to recover damages, he shall give due and timely notice to the employer and the special fund of the filing of the action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense. The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).

(2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays the compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but the proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall the claim be barred by limitations, if the claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an~~[arbitrator or]~~ administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

(3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for that waiver of remedies.

Section 28. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the~~[arbitrator or]~~ administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The~~[arbitrator or]~~ administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the~~[arbitrator or]~~ administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the~~[arbitrator or]~~ administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an~~[arbitrator or]~~ administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the Department of Vocational Rehabilitation and the Department for Employment Services of the Kentucky Cabinet for Workforce Development. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Department of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the~~[arbitrator or]~~ administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable under the award.

Section 29. KRS 342.715 is amended to read as follows:

Notwithstanding the provisions of KRS 342.730, during the period the employee is eligible for permanent total disability benefits and is actively participating in a vocational or physical rehabilitation program, pursuant to an order of the~~[arbitrator or]~~ administrative law judge, the employee's benefits shall be calculated by taking eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state's average weekly wage, times the permanent disability rating as determined in this chapter.

Section 30. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	*0.65*~~[0.75]~~
6 to 10%	*0.85*~~[1.00]~~
11 to 15%	*1.00*~~[1.25]~~
16 to 20%	*1.00*~~[1.50]~~
21 to 25%	*1.15*~~[1.75]~~
26 to 30%	*1.35*~~[2.00]~~
31 to 35%	*1.50*~~[2.25]~~
36% and above	*1.70*~~[2.50]~~

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be ***multiplied by three (3)***~~[one and one-half (1-1/2)]~~ times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability ***shall be determined***~~[otherwise payable]~~ under paragraph (b) of this subsection~~[shall be reduced by one-half (1/2)]~~ for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be ***two (2) times the amount otherwise payable under***~~[restored to the rate prescribed in]~~ paragraph (b) of this subsection.

3. ***Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by four-tenths (0.4); if the employee had less than twelve (12) years of education or a high school General Educational Development diploma, the multiplier shall be increased by two-tenths (0.2); if the employee was age sixty (60) or older, the multiplier shall be increased by six-tenths (0.6); if the employee was age fifty-five (55) or older, the multiplier shall be increased by four-tenths (0.4); and if the employee was age fifty (50) or older, the multiplier shall be increased by two-tenths (0.2).***

4. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.

(d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

Section 31. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) If an employee has a radiographic classification of category 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by report of X-ray which conforms to the standards for X-rays contained in subsection (3) of KRS 342.316, and respiratory impairment resulting from exposure to coal-mine dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740 but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks. These benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking twenty-four (24) or more instruction hours per week in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000). The benefit shall not be paid for a period in which the employee ceases to participate in the program. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a). The period of one hundred four (104) weeks during which this benefit is payable shall begin no later than the one-hundred-eightieth day after the order awarding the benefit becomes final. If an employee completes an approved program of training in less than one hundred four (104) weeks and that employee has accepted a bona fide offer of employment at a location more than fifty (50) miles from the employee's usual residence in the field for which the employee has been trained, the employee shall be paid in a lump sum for relocation the lesser of the sum of three thousand dollars ($3,000) or the amount remaining in unpaid weekly training benefits as provided by this section.

(b) If it is determined that an employee has a radiographic classification of category 1/1 or 1/2, based on the latest ILO International Classification of Radiographics and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of

Permanent Impairment" published by the American Medical Association, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has an occupational disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of fifty percent (50%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(c) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee is seventy-five percent (75%) disabled resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage multiplied by the disability rating of seventy-five percent (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(d) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis based on the latest ILO International Classification of Radiographs, and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the latest edition of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge~~[or arbitrator]~~ that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge~~[or arbitrator]~~ shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.

Section 32. KRS 342.735 is amended to read as follows:

(1) The commissioner shall promulgate administrative regulations to expedite the payment of temporary total disability and medical expense benefits.

(2) The commissioner may promulgate administrative regulations incorporating managed care intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(3) The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing an expedited method for resolving medical issues prior to the filing of a claim with the Department of Workers' Claims. The

administrative regulations shall permit an employee or other interested party, prior to the filing of a claim, to request a determination by an[~~ arbitrator or~~] administrative law judge on medical issues relating to the reasonableness or appropriateness of the proposed medical care or relating to the obligation of the employer or the employer's insurance carrier to make payment of contested medical bills. However, the employee has the burden of proof to show the medical expenses are related to the injury, reasonable and necessary prior to an application of benefits being filed and before an award or order of benefits. Thereafter, the burden is upon the employer. The respondent to the moving party shall be given ten (10) days to answer a request for an expedited determination of medical issues, and the[~~ arbitrator or~~] administrative law judge shall issue a ruling within seven (7) days thereafter. The interested parties shall be provided a form to provide to the medical care provider and the completed form filed with the department and served upon the respondent shall initiate the time for response and determination.

Section 33. KRS 342.760 is amended to read as follows:

(1) There is hereby authorized in the Labor Cabinet an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The secretary of the Labor Cabinet shall be the custodian of the fund, and all moneys and securities in the fund shall be held in trust by the secretary of the Labor Cabinet and shall not be considered a part of the general funds of the state.

(2) The secretary of the Labor Cabinet is authorized to disburse moneys from the fund only upon written order of the[~~arbitrator,~~] administrative law judge[~~,~~] or the board.

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund.

(4) The uninsured employers' fund shall be responsible for the payment of compensation when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of all the amounts authorized to be paid therefrom under the authority of this subsection including reimbursement of the special fund of all liability apportioned to it and for the purposes of enforcing this liability the Labor Cabinet, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation from the fund. This provision shall apply to all pending claims upon which a final order has not been entered.

(5) In furtherance of this purpose, the Attorney General shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The Labor Cabinet shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.

(6) On December 29, 1987, the liabilities of the uninsured employers' fund and its assets remaining in the State Treasury shall be transferred to the uninsured employers' fund created within the Labor Cabinet pursuant to this section.

Section 34. KRS 342.780 is amended to read as follows:

A claimant may, in the original application for benefits, or any party may, by motion accompanied by proper allegations while the case is still pending, and the[~~ arbitrator or~~] administrative law judge shall, upon his own motion at any time before the rendition of the final award, cause the uninsured employers' fund to be made a party to the proceedings if it should appear that the named defendant has failed to secure the payment of compensation as required by KRS 342.340.

Section 35. KRS 342.790 is amended to read as follows:

When an award is made against an employer who:

(1) Has not secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer; and

(2) Has not made a deposit of security, indemnity, or bond acceptable to the commissioner to secure the payment of compensation liability; and

(3) Has failed to make payment of compensation according to the terms of that award,

the award shall constitute a liquidated claim for damages against that employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the commissioner, and the commissioner shall certify the same to the Attorney General who shall forthwith institute a civil action against that employer in the name of the uninsured employers' fund for the collection of that award. In that action, it shall be sufficient for plaintiff to set forth a copy of the award of the[~~ arbitrator or~~] administrative law judge relative to the claim as certified by the commissioner and to state that there is due to plaintiff on account of the opinion, order, or award of the[~~ arbitrator or~~] administrative law judge a specified sum which plaintiff claims with interest. A certified copy of the award in the claim shall be attached to the complaint and shall constitute prima facie evidence of the truth of the facts therein contained.

Section 36. KRS 342.990 is amended to read as follows:

(1) The commissioner shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) to (7) of this section, or criminal penalties pursuant to

subsections (8) and (9) of this section, or both.

(3) The commissioner shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge and in accordance with the provisions of KRS Chapter 13B. The burden of proof shall be upon the attorney representing the commissioner to prove the offense stated in the citation by a preponderance of the evidence. The parties shall stipulate to uncontested facts and issues prior to the hearing before the administrative law judge. The administrative law judge shall issue a ruling within sixty (60) days following the hearing.

(6) A party may appeal the ruling of the administrative law judge to the Franklin Circuit Court in conformity with KRS 13B.140.

(7) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any employer, insurer, or payment obligor subject to this chapter who fails to make a report required by KRS 342.038 within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(b) Any employer, insurer, or payment obligor acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020(1) without having reasonable grounds to delay payment may be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(c) Any person who violates KRS 342.020(9), 342.035(2), KRS 342.040, 342.340, 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. With respect to employers who fail to maintain workers' compensation insurance coverage on their employees, each employee of the employer and each day of violation shall constitute a separate offense. With respect to KRS 342.040, any employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be fined for failure to notify the commissioner of a failure to make payments when due if a report indicating the reason payment of income benefits did not commence within twenty-one (21) days of the date the employer was notified of an alleged work-related injury or disease is not filed with the commissioner within twenty-one (21) days of the date the employer received notice, and if the employee has not returned to work within that period of time. The date of notice indicated in the report filed with the department pursuant to KRS 342.038(1), shall raise a rebuttable presumption of the date on which the employer received notice.

(d) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.395, 342.460, 342.465, or 342.470 shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense. With respect to KRS 342.395, each required notice of rejection form executed by an employee or potential employee of an employer shall constitute a separate offense.

(e) Any person who fails to comply with the data reporting provisions of administrative regulations promulgated by the commissioner pursuant to KRS 342.039, or with utilization review and medical bill audit administrative regulations promulgated pursuant to KRS 342.035(5), shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation.

(f) Except as provided in paragraph (g) of this subsection, a person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) is less than or equal to three hundred dollars ($300) shall be fined per occurrence not more than one thousand dollars ($1,000) per individual nor five thousand dollars ($5,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.

(g) Any person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) exceeds three hundred dollars ($300) shall be fined per occurrence not more than five thousand dollars ($5,000) per individual nor ten thousand dollars ($10,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater.

(h) Any person who violates the employee leasing provision of this chapter shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each violation.

(i) Any violation of the provisions of this chapter relating to self-insureds shall constitute grounds for decertification of such self-insured, a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) per occurrence, or both.

(j) Actions to collect the civil penalties imposed under this subsection shall be instituted in the Franklin District Court and the Franklin Circuit Court.

(8) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate

local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner shall certify the inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(9) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates KRS 342.020(9), 342.035(2), 342.040, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(c) Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, general partner, agent, or representative of the foregoing who knowingly utilizes or participates in any employee leasing arrangement or mechanism as defined in KRS 342.615 for the purpose of depriving one (1) or more insurers of premium otherwise properly payable or for the purpose of depriving the Commonwealth of any tax or assessment due and owing and based upon said premium shall upon conviction thereof be subject to a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or imprisonment for not more than one hundred eighty (180) days, or both, for each offense.

(d) Notwithstanding any other provisions of this chapter to the contrary, when any employer, insurance carrier, or individual self-insured fails to comply with this chapter for which a penalty is provided in subparagraphs (7), (8), and (9) above, such person, if the person is an owner in the case of a sole proprietorship, a partner in the case of a partnership, a principal in the case of a limited liability company, or a corporate officer in the case of a corporation, who knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be personally and individually liable, both jointly and severally, for the penalties imposed in the above cited subparagraphs. Neither the dissolution nor withdrawal of the corporation, partnership, or other entity from the state, nor the cessation of holding status as a proprietor, partner, principal, or officer shall discharge the foregoing liability of any person.

(10) Fines paid pursuant to subsections (7) and (9) of this section shall be paid into the special fund.

(11) In addition to the penalties provided in this section, the commissioner and any[~~ arbitrator,~~] administrative law judge, or court of jurisdiction may order restitution of a benefit secured through conduct proscribed by this chapter.

Section 37. KRS 342.0015 is amended to read as follows:

The substantive provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to any claim arising from an injury or last exposure to the hazards of an occupational disease occurring on or after December 12, 1996. Procedural provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to all claims irrespective of the date of injury or last exposure, including, but not exclusively, the mechanisms by which claims are decided and workers are referred for medical evaluations. The provisions of KRS 342.120(3), 342.125(8), 342.213(2)(e), 342.265, 342.270*(5)*[~~(7)~~], 342.320, 342.610(3), 342.760(4), and 342.990(11) are remedial.

Section 38. The terms of the existing arbitrators are terminated on the effective date of this Act. It is the intent of the General Assembly that on the effective date of this Act, the duties and cases of the arbitrators shall be assigned by the commissioner to the administrative law judges.

Representative Stumbo moved that the House refuse to concur in the Senate Committee Substitute to **HB 992**. Agreed.

On the roll call the vote was: **Yeas 52, Nays 43**. (See March 28, 2000 roll call on the motion that the House refuse to concur in the Senate Committee Substitute to **HB 992**-Appendix.)

The motion that the House refuse to concur in the Senate Committee Substitute to **HB 992** was adopted.

Representative Stumbo moved that a Free Conference Committee be appointed on **HB 992** if the Senate refuses to recede from its amendment. Agreed.

HB 629, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 629** is as follows:

HB 629, AN ACT relating to Commonwealth legal actions, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that:

(a) Public accountability for funds or other assets recovered in a legal action by or on behalf of the general public, the Commonwealth, or its duly elected statewide constitutional officers is appropriate and required, whether the assets or funds recovered are characterized as public or private;

(b) Accountability for assets or funds recovered by statewide elected officials is essential to the public trust, and is even more critical if the Commonwealth or its duly elected statewide constitutional officers have brought or been a party to the action that resulted in the recovery by virtue of the public office they hold; and

(c) Public accountability demands the applicability of the Kentucky Open Records Law, KRS 61.870 to 61.884, and the Kentucky Open Meetings Law, KRS 61.805 to 61.850, so that the actions of individuals or agencies who are charged with the administration of funds or other assets are conducted in full view, and are open to public scrutiny.

(2) Therefore, any other provision of the common law or statutory law to the contrary notwithstanding:

(a) The provisions of subsection (3) of this section shall apply whenever the Attorney General or other duly elected statewide constitutional officer is a party or has entered his appearance in a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other statewide elected constitutional officer or a person, organization, or entity created by the Attorney General or the Commonwealth, through court action or otherwise, to administer trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes;

(b) Except as otherwise provided in paragraph (a) of this subsection, the provisions of subsection (4) of this section shall apply when any funds or assets of any kind or nature whatsoever, including, but not limited to, public funds as defined in KRS 446.010 and private funds or assets, are recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority.

(3) Whenever the Attorney General or other duly elected statewide constitutional officer is a party or has entered his appearance in a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or by a person, organization, or entity created by the Attorney General, or the Commonwealth, through court action or otherwise, to administer trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes, those funds shall be deposited in the State Treasury and the funds or assets administered and disbursed by the Charitable Asset Administration Board created under this section. As used in this section "CAAB" means the Charitable Asset Administration Board.

(a) The CAAB shall consist of the following members, who shall be confirmed by the Senate under KRS 11.160, and who shall serve at the pleasure of the duly elected statewide constitutional officer making the appointment during that constitutional officer's term of office:

1. Three (3) members to be appointed by the Governor;

2. Three (3) members to be appointed by the Attorney General; and

3. Three (3) members to be appointed by the Auditor of Public Accounts.

(b) Each duly elected statewide constitutional officer under paragraph (a) of this subsection shall appoint at least one (1) member who has a background in the administration of charitable, eleemosynary, benevolent, educational, or similar type trust assets, but shall not be currently involved in any activity that would violate the provisions of KRS 11A.040, as they relate to the performance of the appointee's duties on the CAAB.

(c) All appointees to the CAAB shall comply with the provisions of the Executive Branch Code of Ethics found in KRS Chapter 11A.

(d) A vacancy in the membership of the CAAB shall be filled in the same manner and under the same conditions as the initial appointment to the board.

(e) The CAAB shall:

1. Be a nonprofit, de jure, quasigovernmental corporation subject to the Kentucky Open Records Law, KRS 61.870 to 61.884, and Kentucky Open Meetings Law, KRS 61.800 to 61.850;

2. Have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of the CAAB;

3. Be audited on an annual basis by the Auditor of Public Accounts;

4. Provide such documents, written reports, and audits to the Legislative Research Commission as may be requested; and

5. Provide representatives of the organization or entity to testify before any committee of the Kentucky General Assembly when requested concerning the work and financial condition of the CAAB.

(f) The CAAB shall have full authority over the administration, control, and disbursement of any funds recovered under this subsection. The CAAB shall receive, analyze, administer, disburse, and preserve the identity, character, nature, and charitable, eleemosynary, benevolent, educational or similar public purpose of the funds or assets received, consistent with this subsection and the authority for administering the funds recovered, as set forth in the:

1. Articles of incorporation and bylaws, of the corporation;

2. Partnership agreement or other business association agreement;

3. Contractual agreement;

4. Governing documents of the public or private foundation;

5. Charitable trust documents;

6. Terms of the constructive trust;

7. Orders of a state or federal court;

8. State or federal law or regulation; or

9. Any other governing documents necessary to properly administer the funds recovered.

(g) The CAAB may hold public hearings, if necessary, concerning the proper administration or disbursement of trust assets received and to be administered under this subsection.

(h) 1. After the effective date of this Act, all charitable, eleemosynary, benevolent, educational, or similar type trust funds or assets, to which this subsection applies, recovered by way of judgment, settlement, or otherwise, shall be transferred to the CAAB for administration of those funds or assets consistent with their charitable, eleemosynary, benevolent, educational, or similar public purpose and the provisions of this subsection.

2. For those legal actions settled prior to the effective date of this Act, where charitable, eleemosynary, benevolent, educational, or similar type trust funds or assets, are recovered by way of judgment or settlement, and to which this subsection would otherwise be applicable, the federal and state courts where those actions are pending are encouraged to transfer any trust funds or assets remaining after administration to the CAAB.

(4) (a) Any other provision of the common law or statutory law to the contrary notwithstanding, and except for those charitable, eleemosynary, benevolent, educational, or similar trust assets to be administered by the CAAB under subsection (3) of this section, any funds or assets of any kind or nature whatsoever, including, but not limited to, public funds as defined in KRS 446.010 and private funds or assets, when recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority shall be deemed public funds, and shall be deposited into an account maintained by the Finance and Administration Cabinet.

(b) No funds to which this subsection applies when deposited in an account maintained by the Finance and Administration Cabinet shall be disbursed without a specific legislative appropriation of the deposited funds by the General Assembly while in regular or special legislative session.

(5) The common law, including the common law authority of any duly elected statewide constitutional officer, is specifically abrogated to the extent it is inconsistent with the provisions of this section.

(6) The provisions of this section shall not apply to actions by or on behalf of the Commonwealth or its duly elected statewide constitutional officers, but only if the recovery sought and received is for specific individuals, identified as parties to the action either by individual Social Security number, other individual identifying number, or by the individual's proper name.

Section 2. KRS 15.020 is amended to read as follows:

The Attorney General is the chief law officer of the Commonwealth of Kentucky and all of its departments, commissions, agencies, and political subdivisions, and the legal adviser of all state officers, departments, commissions, and agencies, and when requested in writing shall furnish to them his written opinion touching any of their official duties, and shall prepare proper drafts of all instruments of writing required for public use, and shall exercise all common law duties and authority pertaining to the office of the Attorney General under the common law, except when modified by statutory enactment. He shall communicate with the Legislative Research Commission as required by KRS 418.075. He shall appear for the Commonwealth in all cases in the Supreme Court or Court of Appeals wherein the Commonwealth is interested, and shall also commence all actions or enter his appearance in all cases, hearings, and proceedings in and before all other courts, tribunals, or commissions in or out of the state, and attend to all litigation and legal business in or out of the state required of him by law, or in which the Commonwealth has an interest, and any litigation or legal business that any state officer, department, commission, or agency may have in connection with, or growing out of, his or its official duties, except where it is made the duty of the Commonwealth's attorney or county attorney to represent the Commonwealth. When any attorney is employed for any said agency, the same shall have the approval of such agency before such employment. ***If any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any action, including an ex rel. action where the Attorney General has entered an appearance or is a party according to statutory or common law authority, those funds shall be handled under Section 1 of this Act.***

Section 3. KRS 15.060 is amended to read as follows:

The Attorney General shall:

(1) With the assistance of the Auditor of Public Accounts and the Revenue Cabinet, investigate the condition of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth.

(2) When he believes that any fraudulent, erroneous or illegal fee bill, account, credit, charge or claim has been erroneously or improperly approved, allowed or paid out of the Treasury to any person, institute the necessary actions to recover the same. To this end he may employ assistants and experts to assist in examining the fee bills, accounts, settlements, credits and claims, and the books, records and papers of any of the officers of the Commonwealth.

(3) Institute the necessary actions to collect and cause the payment into the Treasury of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth, except where specific statutory authority is given the Revenue Cabinet to do so.

(4) Comply with Section 1 of this Act, if any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any legal action, including an ex rel. action in which the Attorney General has entered an appearance or is a party under statutory or common law authority.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

KRS 367.190, 367.200, 367.210, 367.220 and KRS 367.110 to 367.360 to the contrary notwithstanding, if funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth in a legal action, including an ex rel. action in which the Attorney General has entered an appearance or is a party under statutory or common law authority, those funds recovered shall be handled in accordance with Section 1 of this Act.

Section 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 6. Because it is critical that funds or assets acquired through litigation by or on behalf of the Commonwealth be properly appropriated by the General Assembly and disbursed in an accountable, orderly and appropriate fashion, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Senate Committee Amendment No. 1 Title to **HB 629** is as follows:

By amending the title to read as follows: "AN ACT relating to Commonwealth legal actions and declaring an emergency.".

Representative Barrows moved that the House refuse to concur in the Senate Committee Substitute to **HB 629**. Agreed.

Representative Barrows moved that the House refuse to concur in the Senate Committee Amendment No. 1 Title to **HB 629**. Agreed.

Report On Enrolled Bills (Continued)

HB 221, HB 439, HB 542, HB 555, HB 564, HB 588, HB 593, HB 660, HB 675, HB 740, HB 792, HB 852, HB 856, HB 881, HB 886, HB 910, HB 946, HCR 8, HCR 11, HCR 22, HCR 114, and **HJR 141** delivered to the Senate and signed by the President. Delivered to the Governor on March 28, 2000, at 12:25 p.m.

Senate Message (Continued)

Message in regard to **HB 8**: The Senate has refused to recede from its Committee Substitute to **HB 8** and respectfully asking for a Conference Committee to be appointed.

Message in regard to **HB 16**: The Senate has refused to recede from its Committee Substitute to **HB 16** and is respectfully asking for a Conference Committee to be appointed.

Message in regard to **HB 100**: The Senate has refused to recede from its Committee Substitute and Senate Floor

Amendment to **HB 100** and is respectfully asking for a Conference Committee to be appointed.

Message in regard to **HB 275**: The Senate has refused to recede from its Senate Floor Amendment No. 1 to **HB 275** and is respectfully asking for a Conference Committee to be appointed.

Message in regard to **HB 330**: The Senate has refused to recede from its Senate Committee Amendment No. 1 to **HB 330** and is respectfully asking for a Conference Committee to be appointed.

Message in regard to **HB 486**: The Senate has refused to recede from its Senate Floor Amendment No. 1 to **HB 486** and is respectfully asking for a Conference Committee to be appointed. (Time: 1:00 p.m.)

Announcing passage of **HB 742** and **HB 807**. (Time: 12:50 p.m.)

Message in regard to **HB 366**: The Senate has passed **HB 366** with Senate Committee Amendments and Senate Floor Amendments and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 778**: The Senate has passed **HB 778** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **SB 163**: The Senate has refused to concur in House Floor Amendment No. 6 to **SB 163** and respectfully returns it with the request that this Honorable Body recede from the Amendment.

Representative Stumbo moved that **SB 49** be taken from the Clerk's desk and placed in the Orders of the Day. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Committees meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (Continued)

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 8**: Representatives Collins, Chairman; Scott; Childers and Colter.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 275**: Representatives J. Adams, Chairman; Vincent; Webb and Hoffman.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 100**: Representatives Cherry, Chairman; Collins; Riggs and Ausmus.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 16**: Representatives J. Adams, Chairman; A. Arnold; Hoffman and D. D. Butler.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 330**: Representatives Wayne, Chairman; Vincent; P. Clark and Jenkins.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 992**: Representatives Jenkins, Chairman; Branham; Yonts; J. Turner and Heleringer.

Representative Webb moved that the rules be suspended to grant floor privileges and act upon a Resolution. Agreed.

Representative Webb moved the adoption of the following **HR 189**:

HR 189, A RESOLUTION honoring the West Carter High School girls' basketball team on winning its first state basketball tournament title.

WHEREAS, the Lady Comets' hard work and dedication has paid off in the highest form possible for high school athletes: winning the state high school Sweet Sixteen basketball title; and

WHEREAS, Coach John "Hop" Brown has worked diligently and challenged his girls' basketball teams over the past twenty-two years and it has finally paid off in the form of a state championship; and

WHEREAS, the city of Olive Hill rejoices in the success of its state champions and will never forget this great accomplishment;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hereby congratulates the West Carter High School Lady Comets for winning their first ever girls' state Sweet Sixteen basketball tournament.

Section 2. That the House of Representatives adjourns this day, March 27, 2000, in honor of the Lady Comets and their head coach John "Hop" Brown.

Section 3. That the Clerk of the House of Representatives forward a copy of this Resolution to Coach John "Hop" Brown, P.O. Box 1479, State Route 1025, Olive Hill, Kentucky 41164.

There being no objection **HR 189** was adopted.

Recess (Continued)

Representative Stumbo moved that the House recess until 5:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

A Conference Committee Report was filed on **HB 8**.

A Conference Committee Report was filed on **HB 16**.

A Conference Committee Report was filed on **HB 100**.

A Conference Committee Report was filed on **HB 275**.

A Conference Committee Report was filed on **HB 330**.

A Conference Committee Report was filed on **HB 502**.

Orders of the Day (Continued)

Representative Stumbo moved to adopt the Conference Committee Report requesting a Free Conference Committee on **HB 8, HB 16, HB 100, HB 275, HB 330,** and **HB 502**. Agreed.

SB 77, with House Committee Substitutes, House Committee Amendments, and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the House Committee Substitute No. 2 to **SB 77**. Agreed.

Representative Moberly moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute No. 2 to **SB 77**. Agreed.

Representative Moberly moved that **SB 77**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 28, 2000 roll call on **SB 77** - Appendix.)

SB 77, by way of House Committee Substitute as amended, was passed.

Representative Moberly moved the adoption of House Committee Amendment No. 1 Title to **SB 77**. Agreed; and the title was agreed to.

Representative Moberly moved that the vote by which **SB 77**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 49, with House Committee Substitute, House Committee Amendment, and House Floor Amendments attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **SB 49** be passed.

On the roll call the vote was: **Yeas 88, Nays 2**. (See March 28, 2000 roll call on **SB 49** - Appendix.)

SB 49 was passed.

Representative R. Adams moved the adoption of House Committee Amendment No. 1 Title to the House Committee Substitute to **SB 49**. Agreed; and the title was agreed to.

Representative R. Adams moved that the vote by which **SB 49**, by way of Senate committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 176, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 176** is as follows:

On page 12, between lines 1 and 2, insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 143A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other statutory provisions, the tax imposed by KRS 143A.020 applicable to limestone actually used in the manufacture of cement by an integrated miner and manufacturer of cement shall be limited to fourteen cents ($0.14) per ton of limestone mined in Kentucky and actually used in the manufacture of cement.";

On page 12, line 2, after "Section" delete "3" and insert "4" in lieu thereof;

On page 12, line 2, before, "This" insert "Sections 1 and 2 of"; and

On page 12, after line 3, insert the following:

"Section 5. Section 3 of this Act takes effect August 1, 2000.".

Representative Sims moved that the House concur in Senate Committee Amendment No. 1 to **HB 176**. Agreed.

Representative Sims moved that **HB 176**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 88, Nays 1**. (See March 28, 1998 roll call on **HB 176** - Appendix.)

HB 176, as amended by the Senate, was passed and the title agreed to.

Representative Sims moved that the vote by which **HB 176**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to file a Free Conference Committee Report on **HB 100**. Agreed.

HB 693, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 693** is as follows:

On page 3, line 9, by deleting all new language and removing all brackets and strikethroughs;

On page 3, line 11, by deleting all new language and removing all brackets and strikethroughs;

On page 3, line 19, by deleting all new language;

On page 3, line 20, by deleting all new language and removing all brackets and strikethroughs;

On page 3, line 21, by deleting all new language and removing all brackets and strikethroughs;

On page 3, line 26, by deleting all new language; and

On page 3, line 27, by deleting all new language and removing all brackets and strikethroughs.

Representative Cherry moved that the House concur in Senate Committee Amendment No. 1 to **HB 693**. Agreed.

Representative Cherry moved that **HB 693**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 28, 1998 roll call on **HB 693** - Appendix.)

HB 693, as amended by the Senate, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 693**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 806, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 806** is as follows:

On page 25, beginning on line 2, by deleting Section 10 in its entirety, and beginning on line 26, by deleting Section 11 in its entirety; and

On page 32, line 16, by renumbering "SECTION 12" as "SECTION 10".

Representative Ausmus moved that the House concur in Senate Committee Amendment No. 1 to **HB 806**. Agreed.

Representative Ausmus moved that **HB 806**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 28, 1998 roll call on **HB 806** - Appendix.)

HB 806, as amended by the Senate, was passed and the title agreed to.

Representative Ausmus moved that the vote by which **HB 806**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 619, HB 742, HB 807, HB 118, HB 136, HB 161, HB 244, HB 310, HB 360, HB 405, HB 438, HB 462,** and **HB 643** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:55 p.m.)

Orders of the Day (Continued)

HB 611, with Senate Committee Substitute, Senate Floor Amendments, and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 611** is as follows:

HB 611, AN ACT relating to the tobacco Master Settlement Agreement, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act, unless the context requires otherwise:

(1) "Board" means the Rural Development Board created by Section 2 of this Act;

(2) "Fund" means the rural development fund established by an Act of the 2000 Regular Session;

(3) "Subcommittee" means the Rural Development Oversight Committee created by Section 8 of this Act;

(4) "Council" means the rural development advisory council authorized by Section 7 of this Act;

(5) "Master Settlement Agreement" means the settlement agreement dated November 23, 1998, entered into by the Commonwealth of Kentucky and major United States tobacco product manufacturers; and

(6) "Phase II Agreement" means the National Tobacco Grower Settlement Trust Agreement dated July 19, 1999, entered into by tobacco states and major tobacco companies to compensate tobacco growers and quota owners for losses resulting from the Master Settlement Agreement.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The Rural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(2) The board shall consist of twenty-one (21) members as follows:

  (a) Three (3) voting members or their designees, as follows:

    1. The Governor of the Commonwealth of Kentucky, who shall serve as chair;

    2. The Commissioner of the Kentucky Department of Agriculture, who shall serve as vice chair and shall serve as chair in the absence of the Governor; and

3. The secretary of the Cabinet for Economic Development;

(b) Twelve (12) voting members appointed by the Governor, who shall be geographically distributed throughout the state and subject to confirmation by the House of Representatives and Senate as provided in KRS 11.160(2). The members shall be as follows:

1. One (1) representative of the Kentucky Farm Bureau;

2. One (1) representative of the Kentucky Chamber of Commerce, who shall be an agribusiness person;

3. One (1) representative of the Kentucky League of Cities;

4. One (1) representative of the Kentucky Association of Counties;

5. One (1) attorney with farm experience and familiarity with agricultural policy;

6. One (1) agricultural lender; and

7. Six (6) active farmers, at least three (3) of whom shall be from counties that are substantially tobacco-impacted, as determined by a formula that includes tobacco income as a percentage of total personal income in the county, and at least one (1) of whom shall have experience in agricultural diversification; and

(c) Five (5) ex officio, nonvoting members of the General Assembly, as follows:

1. Two (2) members of the Senate, one (1) appointed by the President of the Senate and one (1) appointed by the Minority Leader of the Senate; and

2. Three (3) members of the House of Representatives, two (2) appointed by the Speaker of the House and one (1) appointed by the Minority Leader of the House.

(d) The State Treasurer who shall serve as a nonvoting member.

(3) The members appointed under subsection (2)(b)1. to 4. of this section shall be chosen from a list of three (3) nominees submitted to the Governor by each of the respective organizations.

(4) Consideration shall be given to racial and gender equity in the appointment of board members.

(5) The majority of the voting members shall be active farmers.

(6) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.

(7) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

(a) Three (3) members shall be appointed for one (1) year;

(b) Three (3) members shall be appointed for two (2) years;

(c) Three (3) members shall be appointed for three (3) years; and

(d) Three (3) members shall be appointed for four (4) years.

(8) The Governor shall convene the first meeting of the board by July 1, 2000.

(9) The board shall meet quarterly, or at the call of the chair or a majority of the voting members.

(10) A quorum of the board shall consist of eight (8) voting members. A majority of the voting members present may act upon matters before the board.

(11) The board shall be attached to the Governor's Office for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The board's duties shall include, but not be limited to:

(a) Administering the rural development fund, except as provided in subsection (2) of Section 5 of this Act;

(b) Receiving all requests for funds and authorizing the distribution of funds;

(c) Developing guidelines and criteria for eligibility for and disbursement of funds, the types of direct and indirect economic assistance to be awarded, and procedures for applying for funds and reviewing applications for assistance;

(d) Completing a comprehensive plan:

1. The comprehensive plan shall propose long-term investments in Kentucky agriculture that will assist farmers in remaining competitive in existing and new enterprises. This long-term plan shall identify a diversified mix of enterprises that are profitable to farmers and determine the investments necessary to support the viability of those enterprises; and

2. The plan shall include recommendations to meet the immediate needs of the Commonwealth's farmers.

A set of priorities shall be established from the plan to implement and fund programs to meet these priorities as soon as practical;

(e) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the board will have on the agriculture community in the Commonwealth;

(f) Promulgating administrative regulations relating to carrying out the purposes of Sections 1 to 8 of this Act;

(g) Hiring a director to carry out the will of the board;

(h) Ensuring the necessary mechanisms are in place for the committees created by Section 4 of this Act to function effectively;

(i) Contracting with other persons or entities if necessary to effectuate the board's purposes and functions;

(j) Enacting bylaws concerning the conduct of the board's business and other administrative procedures as the board deems necessary;

(k) Providing at least quarterly reports to the Rural Development Oversight Committee created by Section 8 of this Act. These reports shall contain detailed information relating to each proposed project that is being recommended by the board; and

(l) Submitting an annual written report to the Governor, the Commissioner of Agriculture, the Rural Development Oversight Committee, and the Legislative Research Commission regarding the administrative, financial, and programmatic activities of the board.

(2) Criteria to be used in considering applications for funds shall include, but not be limited to:

(a) Assistance to tobacco farmers and communities in counties most affected by the loss in tobacco income;

(b) Assistance to communities most dependent on agriculture;

(c) Enhancement and promotion of agriculture in the Commonwealth;

(d) Merits of the proposal in the application;

(e) Compatibility with state and local agriculture-related comprehensive plans;

(f) Documentation of measures likely to ensure soundness of the proposal such as cash flow, security, market evaluation, and infrastructure considerations;

(g) Promotion of diversification;

(h) Regional orientation; and

(i) Cooperation among entities.

(3) In administering the fund under subsection (1)(a) of this section, the board shall be governed by the following principles:

(a) Individuals, groups, educational institutions, governmental entities, and other agriculturally related entities are eligible to receive moneys from the fund; and

(b) No more than one percent (1%) of the fund's annual receipts shall be expended on the administrative costs of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The board shall create committees, including, but not limited to, committees on:

(a) Access to Capital;

(b) Environmental Cost Share;

(c) Marketing and Entrepreneurship; and

(d) Technology, Infrastructure, and Training.

(2) Each committee shall be composed of board members knowledgeable about the programs being overseen by that committee.

(3) The committees shall assist the board in developing criteria for programs to be considered by the board. The committees shall make recommendations to the board, and the board shall determine which programs are to be overseen and implemented by the committees. The board shall determine which individual projects in each program are approved.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

Programs that shall be created by the board and overseen and implemented by the board or committees include:

(1) Programs that receive direct funding from the board:

(a) A Phase II Supplement Program to ensure that payments to tobacco quota owners and growers are maintained at the same level as Kentucky's 1999 Phase II Agreement funding level of one hundred fourteen million dollars

($114,000,000) for the calendar year 2000. The board shall use information provided by the Kentucky Tobacco Settlement Trust Corporation in determining the payments to quota owners and growers; and

(b) A Farm Market Development and Infrastructure Program to develop regional, integrated farm markets, and regional or community capital projects.

(2) Programs that receive direct authorization for moneys from the rural development fund by the General Assembly:

(a) An Agricultural Entrepreneurship Program overseen by the board to support small farm agricultural diversification through technical assistance, business mentoring, and financial incentives. The General Assembly shall authorize moneys to the program for each year of the biennium;

(b) An Environmental Stewardship Program to provide cost-share assistance to farmland owners for compliance with the state agriculture water quality plan and other environmental compliance requirements. The General Assembly shall authorize moneys to the Division of Conservation in the Natural Resources and Environmental Protection Cabinet for each year of the biennium to be used for agricultural environmental compliance and compliance with the agriculture water quality plan; and

(c) A Rural Water Line Extension Program to provide municipal water in areas of high agricultural activity or need. The General Assembly shall authorize the issuance of bonds through the Kentucky Infrastructure Authority for this program.

(3) The board may create and fund other agricultural assistance programs in addition to those created under subsection (1) of this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The board is authorized to establish a Center for Entrepreneurship to operate under the Agricultural Entrepreneurship Program provided in subsection (2)(a) of Section 5 of this Act. The duties of the center shall include:

(1) Assisting local individuals and entities and regional and statewide entities in developing and carrying out entrepreneurial efforts relating to agriculture;

(2) Advising the Rural Development Board on fiscal soundness of entrepreneurial proposals; and

(3) Identifying and coordinating with existing agencies in order to develop and deliver entrepreneurial assistance.

SECTION 7. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Each county shall establish a rural development advisory council to evaluate the programs being funded by the board and to devise a plan for the county that would utilize the programs best suited for the agricultural members of the county. No project shall be funded in any county that has failed to establish a rural development advisory council. The council shall assist prospective applicants in the council's county in obtaining moneys from the fund. Consideration shall be given to racial and gender equity in the appointment of council members. Each council shall consist of eight (8) members as follows:

(a) Two (2) members selected by the county judge/executive and confirmed by the fiscal court;

(b) Two (2) members selected by the board or boards of the soil conservation district or districts serving the county;

(c) Two (2) members selected by the county extension council, one (1) of whom shall have experience in agricultural diversification; and

(d) Two (2) young farmers between the ages of twenty-one (21) and thirty-five (35), selected by the six (6) members in paragraphs (a) to (c) of this subsection.

(2) Each council shall be attached to the county cooperative extension service for administrative support.

(3) Each council shall receive guidance and assistance from the board as the council devises plans and assists applicants as provided in subsection (1) of this section.

(4) Councils shall be responsible for developing local strategies for enhancing agricultural opportunities.

(5) Each council shall utilize the resources of the Agricultural Entrepreneurship Program in Section 5 of this Act and the Kentucky Small Business Development Center Network for assistance and support in aiding prospective applicants in obtaining moneys from the fund.

(6) (a) If the state board recommends changes in the county plan that the council does not agree with, the council may take the plan before the subcommittee created in Section 8 of this Act for discussion and possible resolution of differences; or

(b) If the state board recommends that an individual application not be approved or that it be changed, the individual may take the application before the subcommittee for discussion and possible resolution of differences.

SECTION 8. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Rural Development Oversight Committee. The subcommittee shall be composed of eight (8) members and shall include four

(4) members of the House of Representatives and four (4) members of the Senate. The subcommittee shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint, from the membership of each house of the General Assembly, the members of the subcommittee for terms of two (2) years. The members so appointed shall elect one (1) of their number to serve as chair. Any vacancy that may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs.

(2) The subcommittee shall meet monthly, or at the call of the chair. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3) and 7.110(5).

(3) A quorum of the subcommittee shall consist of five (5) members. A majority of the members present may act upon matters before the subcommittee.

(4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).

(5) The subcommittee shall review each project being recommended by the board. In reviewing the projects, the subcommittee shall determine whether the criteria developed for the programs created under Section 5 of this Act have been met and whether any other relevant requirements have been met.

(6) If the subcommittee determines that any of the criteria or requirements required by Sections 1 to 8 of this Act have not been met, the subcommittee may, by majority vote, recommend to the board in writing that a project not be approved. The reasons for not approving a project shall be stated in the correspondence, which shall be issued within sixty (60) days of receiving the recommendation from the board.

(7) If the board approves a project that the subcommittee has recommended in writing not be approved, the board shall provide a written explanation to the subcommittee as to why the board approved the project. The written explanation shall be sent within thirty (30) days of receiving the subcommittee's notification.

(8) The subcommittee shall also hear cases that arise under subsection (6) of Section 7 of this Act. In these cases the subcommittee shall provide a forum for discussion and possible resolution of differences between the board and the affected party. If the differences are not resolved, the board's recommendation shall stand.

(9) The subcommittee shall maintain records of its findings and determinations. The records shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission and to the General Assembly when next convened.

Section 9. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Coal Marketing and Export Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) Office of the Chief Information Officer;[~~and~~]
(10) Office of Coal Marketing and Export*; and*
(11) Rural Development Board.

Section 10. As used in subsection (2) of Section 1 of this Act, "rural development fund" means the fund with that name created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session. In codifying subsection (2) of Section 1 of this Act, the Reviser of Statutes may substitute the relevant KRS section number for the phrase "Act of the 2000 Regular Session" in that subsection.

Section 11. Whereas it is important to establish the administrative functions of this Act as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Senate Floor Amendment No. 2 to **HB 611** is as follows:

On page 2, lines 13 to 25, by reordering subparagraph 7 as subparagraph 1 and reordering subparagraphs 1 through 6 as subparagraphs 2 through 7.

The Senate Floor Amendment No. 3 to **HB 611** is as follows:

On page 7, line 9, by deleting "*and*" the second it appears on the line; and

On page 7, line 12, by deleting "*.*", and inserting "*; and*"; and

On page 7, after line 12, by inserting the following:

"***(c) An Environmental Clean-up Program to provide cost-share assistance to tobacco warehouse operators for demolition and abatement of environmental hazards associated with warehouse structures.***".

The Senate Floor Amendment No. 4 to **HB 611** is as follows:

On page 2, line 1, by replacing "***twenty-one (21)***" with "***twenty-two (22)***"; and

On page 2, line 20, by deleting "***and***"

On page 2, after line 21, after "*7.*" by inserting "***One (1) tobacco warehouse operator; and***

"***8.***"

The Senate Committee Amendment No. 1 Title to **HB 611** is as follows:

by amending the title to read as follows: "AN ACT relating to the tobacco Master Settlement Agreement and declaring an emergency."

Representative Thomas moved that the House refuse to concur in the Senate Committee Substitute to **HB 611**. Agreed.

Representative Thomas moved that the House refuse to concur in the Senate Floor Amendment No. 2 to **HB 611**. Agreed.

Representative Thomas moved that the House refuse to concur in the Senate Floor Amendment No. 3 to **HB 611**. Agreed.

Representative Thomas moved that the House refuse to concur in the Senate Floor Amendment No. 4 to **HB 611**. Agreed.

Representative Thomas moved that the House refuse to concur in the Senate Committee Amendment No. 1 Title to **HB 611**. Agreed.

HB 901, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 901** is as follows:

On page 2, line 21, after "***Code***" by inserting "***or those existing education based entities whose purpose is the delivery of services to state school systems, their employees, or their governing organizations and which have been granted tax-exempt status under Section 501 (c)(6) of the United States Internal Revenue Code.***"

Representative Geveden moved that the House concur in Senate Floor Amendment No. 2 to **HB 901**. Agreed.

Representative Geveden moved that **HB 901**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 28, 2000 roll call on **HB 901** - Appendix.)

HB 901, as amended by the Senate, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 901**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 939, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 939** is as follows:

HB 939, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that:

(a) The intent of disclosure of campaign finance information is to make that information about the role of money in politics accessible to the public;

(b) The volume of campaign finance reports submitted each year to the state renders it virtually impossible, without the help of computer technology, to derive meaningful conclusions from the records;

(c) Computer automation is a necessary and effective means of transmitting, organizing, storing, and retrieving vast amounts of data submitted by candidates in election campaigns; and

(d) Although candidates are currently permitted to file campaign finance reports electronically if they so choose, very few candidates have chosen to do so, and therefore access to campaign finance data through electronic or on-line technology is limited.

(2) The General Assembly enacts this legislation to accomplish the following:

(a) To improve the existing system of electronic reporting and extend its usage to more candidates;

(b) To allow concerned persons easy, convenient, and timely access to campaign finance reports submitted to the state;

(c) To ease the burden on candidates and committees of tabulating, filing, and maintaining public records of financial activity;

(d) To strengthen both the disclosure and enforcement capabilities of the Registry of Election Finance;

(e) To cooperate in the standardization of reporting formats among states so that interstate as well as intrastate sources of political money can be known;

(f) To provide for a fully informed electorate; and

(g) To help restore public trust in the governmental and electoral institutions of this state.

Section 2. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;

(d) An executive committee of a political party; and

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

(c) An independent expenditure by any individual or permanent committee;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;[~~ and~~]

(12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them***;***

(13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(16) "Filer" means any candidate, committee, or other individual or entity required to submit financial disclosure reports to the registry; and

(17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the

registry.

Section 3. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry pursuant to KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the secretary of the Personnel Cabinet and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter and KRS Chapter 121A. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter and KRS Chapter 121A;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, parties, and exploratory committees as defined in KRS 121A.010(9)(e) containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate, slate of candidates, or exploratory committee, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, or to an exploratory committee, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter and KRS Chapter 121A; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion;

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter and KRS Chapter 121A which may become the subject of civil or criminal prosecution; and

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

(6) If adequate and appropriate agency funds are available, the registry shall:

(a) Develop or acquire a system for electronic reporting for use by individuals and entities required to file campaign finance reports with the registry under this chapter or KRS Chapter 121A. The registry shall promulgate administrative regulations under KRS Chapter 13A which provide for a nonproprietary standardized format or formats, using industry standards, for the transmission of data required under this chapter or KRS Chapter 121A;

(b) Accept test files from software vendors and persons wishing to file reports electronically for the purpose of determining whether the file format complies with the nonproprietary standardized format developed under paragraph (a) of this subsection and is compatible with the registry's system for receiving the data;

(c) Make all paper or electronic reports filed with the registry pertaining to candidates for the General Assembly and statewide office available on the Internet free of charge, in an easily understood format that allows the public to browse, search, and download the data contained in the reports by each of the reporting categories required by this chapter or KRS Chapter 121A, including, but not limited to:

1. The name of each candidate or committee;

2. The office sought by each candidate;

3. The name of each contributor;

4. The address of each contributor;

5. The employer or business occupation of each contributor, or if the contributor is a permanent committee, a description of the major business, social, or political interest represented by the permanent committee;

6. The date of each contribution; and

7. The amount of each contribution.

(d) Make all data specified in paragraph (c) of this subsection available on the Internet no later than ten (10) business days after its receipt by the registry. If a contribution or expenditure report is filed late with the

registry, that data shall be made available on the Internet within twenty-four (24) hours of the registry's receipt of the data;

(e) Make filer-side software available free of charge to all individuals or entities subject to the reporting requirements of this chapter or KRS Chapter 121A;

(f) Establish a training program on the electronic reporting program and make it available free of charge to all individuals and entities subject to the reporting requirements of this chapter or KRS Chapter 121A; and

(g) Maintain all campaign finance data pertaining to legislative and statewide candidates on-line for twenty (20) years after the date the report containing the data is filed, and then archive the data in a secure format.

(7) In conjunction with the program of electronic reporting set out in subsection (6) of this section, the registry may:

(a) Develop or acquire a computer system that provides for on-line Internet submission of the reports required by this chapter or KRS Chapter 121A utilizing security procedures to ensure the integrity of the data transmitted; and

(b) Provide procedures for verifying electronic signatures placed upon reports under this chapter or KRS Chapter 121A.

Section 4. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided *or using a format approved* by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be

governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) Subject to the provisions of subsection (20) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or

other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(22) No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(23) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(24) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(25) No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(26) (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(27) No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 5. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.

(k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(l) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) (a) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

3. The total amount of cash contributions received during the reporting period; and

4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1)

election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report[~~, upon a prescribed form,~~] to the registry, ***on a form provided or using a format approved by the registry,*** of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
4. The total amount of cash contributions received during the reporting period; and
5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
4. All reports to the registry shall be ***received by***[~~ in the hands of~~] the registry or postmarked within five (5) days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report[~~, upon a prescribed form,~~] to the registry***, on a form provided or using a***

format approved by the registry, of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures ***on a form provided or using a format approved***[~~ made on forms prescribed~~] by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be ***received by***[~~in the hands of~~] the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate ***paper*** copy of each report filed ***either on paper or electronically*** with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates,

or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.

(b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.

(c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary, runoff primary, and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.

(d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

(e) Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

(12) (a) For the purposes of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a candidate for a particular office, means the period of time beginning January 1 following a regular election for the office and ending December 31 following the next regular election for that office.

(b) For the purpose of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a constitutional amendment or public question which appears on the ballot, means the period of time beginning January 1 following a regular election for any state legislative office and ending December 31 following the next regular election for any state legislative office.

(c) If adequate and appropriate agency funds are available to implement this subsection, beginning on January 1, 2002, the option of electronic reporting shall be made available by the registry for all of the following:

1. Candidates for statewide office and slates of candidates that during the election cycle receive contributions or loans in the aggregate of twenty-five thousand dollars ($25,000) or more, or at any time have a balance in a campaign account or accounts in the aggregate of twenty-five thousand dollars ($25,000) or more;

2. Candidates for the General Assembly that during the election cycle receive contributions or loans in the aggregate of twelve thousand five hundred dollars ($12,500), or at any time have a balance in an aggregate of twelve thousand five hundred dollars ($12,500) or more; and

3. Campaign committees, political issues committees, permanent committees, registered fundraisers, contributing organizations, and individuals and entities making independent expenditures that during the election cycle receive contributions or loans in an aggregate of twenty-five thousand dollars ($25,000) or more, make expenditures in an aggregate of twenty-five thousand dollars ($25,000) or more, or at any time have a balance in an aggregate of twenty-five thousand dollars ($25,000) or more.

(13) Filers specified in subsection (12) of this section shall also continue to file required campaign finance reports in paper format until the registry deems it is no longer necessary. The paper copy shall continue to be the official version for audit and other legal purposes.

(14) Filers not required to file reports electronically, as set forth in this section, are strongly encouraged to do so voluntarily.

(15) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.

(16) All electronic or on-line filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.

(17) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite

paper copy shall be deemed to not be in compliance with the requirements set forth in this section.

(18) No candidate is obligated to file any reports electronically.

Representative Heleringer moved that the House concur in Senate Committee Substitute to **HB 939**. Agreed.

Representative Heleringer moved that **HB 939**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 28, 2000 roll call on **HB 939** - Appendix.)

HB 939, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 939**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 373, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 373** is as follows:

On page 3. line 15 after "***personal***" by inserting "***or real***"; and
On page 3, line 19 after "physician" by inserting "***for leave requested under subparagraph 1.a. of this subsection***".

Representative Colter moved that the House concur in Senate Floor Amendment No. 1 to **HB 373**. Agreed.

Representative Colter moved that **HB 373**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 28, 2000 roll call on **HB 373** - Appendix.)

HB 373, as amended by the Senate, was passed and the title agreed to.

Representative Colter moved that the vote by which **HB 373**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 585, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 585** is as follows:

On page 1, line 5, after the word "***license***" and before the semicolon "***;***" insert "***who must use a bioptic telescopic device in order to operate a motor vehicle***"; and

On page 2, lines 14 and 15, delete lines 14 and 15 in their entirety and insert in lieu thereof:

"***(1) All persons applying for an initial operator's license or an initial instruction permit shall submit to a test of visual acuity and visual field at the time of application.***"; and

On page 2, line 16, delete the word "***Applicants***" and insert in lieu thereof "***Persons***"; and
On page 2, line 17, delete the word "***Applicants***" and insert in lieu thereof "***Persons***"; and
On page 2, line 19, delete "***an applicant***" and insert in lieu thereof "***a person***"; and
On page 2, line 20, delete the word "***applicant***" and insert in lieu thereof "***person***"; and
On page 2, line 22, delete "***An applicant***" and insert in lieu thereof "***A person***"; and
On page 2, line 25, delete the word "***applicant's***" and insert in lieu thereof "***person's***"; and
On page 2, line 27, delete the word "***Applicants***" and insert in lieu thereof "***Persons***"; and
On page 5, line 11, delete "***Sections 1 to 4***" and insert in lieu thereof "***Sections 3 and 4***".

Representative Johns moved that the House concur in Senate Floor Amendment No. 1 to **HB 585**. Agreed.

Representative Johns moved that **HB 585**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 89**, **Nays 0**. (See March 28, 2000 roll call on **HB 585** - Appendix.)

HB 585, as amended by the Senate, was passed and the title agreed to.

Representative Johns moved that the vote by which **HB 585**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 706, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 706** is as follows:

On page 6, between lines 20 and 21, by inserting the following:

"*(9) (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children, the Cabinet for Health Services, public schools, local libraries, the Kentucky March of Dimes, family resource centers, agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children, the Folic Acid Awareness Campaign, physicians, secondary health education and consumer sciences teachers, the Spina Bifida Association of Kentucky, and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.*

(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.

(10) The authority shall work with local entities, including but not limited to health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination.

(11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils."; and

On page 7, line 8, after "*form*", by inserting the "*a*"; and

On page 7, line 8, by deleting "*councils*" and inserting "*council*" in lieu thereof; and

On page 7, line 12, by inserting after "*organizations*" the following: "*, including but not limited to the organizations or agencies*"; and

On page 16, line 13, after "(g)", by deleting all new language through line 20 and inserting the following in lieu thereof:

"*A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that the child is enrolled in public school, public preschool, or Head Start program;*"; and

On page 46, between lines 13 and 14, by inserting the following:

"*(16) When a birth certificate is filed for any birth that occurred outside an institution, the Cabinet for Health Services shall forward information regarding the need for an auditory screening for an infant and a list of options available for obtaining an auditory screening for an infant. The list shall include the Commission for Children with Special Health Care Needs, local health departments as established in KRS Chapter 212, hospitals offering obstetric services, alternative birthing centers required to provide an auditory screening under Section 11 of this Act, and licensed audiologists, and shall specify the hearing methods approved by the Early Child Development Authority in accordance with Section 11 of this Act.*".

Representative Burch moved that the House concur in Senate Floor Amendment No. 1 to **HB 706**. Agreed.

Representative Burch moved that **HB 706**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 28, 2000 roll call on **HB 706** - Appendix.)

HB 706, as amended by the Senate, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 706**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 537, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 537** is as follows:

HB 537, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided~~[in KRS 61.555]~~;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4)***. A lump sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.***~~[;]~~ Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959~~[. A member of the State Police Retirement System, a member of the County Employees Retirement System, or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current,~~

~~may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday]~~;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month***. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions***;

(31) "Objective medical evidence" means~~[medical histories;]~~ reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;~~[and]~~

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543***; and***

(34) "Month" means a calendar month.

Section 2. KRS 16.560 is amended to read as follows:

(1) The member contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 16.510 to 16.652 shall be credited; only funds from this account shall be used to return accumulated contributions of a member when required by reason of any provision of KRS 16.510 to 16.652. ***Prior to the member's retirement, death, or refund in accordance with Section 21 of this Act, no funds shall be made available from the member's contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contribution shall be transferred from the member's contribution account to the retirement allowance account.

(5) Included as a part of such member's contribution account shall be his accumulated contributions in the Kentucky Employees Retirement System, if any, transferred to this system.

Section 3. KRS 16.577 is amended to read as follows:

(1) Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(2) There shall be no reduction in the retirement allowance of a member who has twenty (20) or more years of service credit, at least fifteen (15) of which are current service.

Section 4. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall ***not be eligible for an unreduced retirement allowance***[~~be less than normal retirement age~~];

(c) The person's application shall be on file in the retirement office no later than ***twenty-four (24)***[~~twelve (12)~~] months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) ***A***[~~No~~] ***person's*** disability application based on the same claim of incapacity shall be accepted and ***reconsidered***[~~considered~~] for disability ***if***[~~for any person who has previously applied for and been denied disability benefits unless it is~~] accompanied by ***new objective medical*** evidence[~~ of a substantial change in the person's condition which shall satisfy subsection (4) of this section~~]. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;
2. Injury or disease resulting from military service; or
3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 5. KRS 16.601 is amended to read as follows:

(1) If the death of a member in service occurs on or after August 1, 1992, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary, who is his spouse, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death or until the spouse remarries, whichever occurs first.

(2) If the death of a member in service occurs on or after July 1, 1968, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of ***only one***[~~a~~] beneficiary other than his spouse, who is a dependent receiving at least one-half (1/2) of his support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000).

(3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.

(4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.

Section 6. KRS 16.640 is amended to read as follows:

The government and control of the system is hereby vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 16.510 to 16.652 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 16.510 to 16.652, the same rights, duties, and obligations shall apply to the board, as now apply under the provisions of KRS 61.510 to 61.692, except that members of the board, when acting for the State Police Retirement System, shall be paid a per diem of ***thirty dollars ($30)***[~~ten dollars ($10)~~] plus actual expenses.

Section 7. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;~~[and]~~

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592***; and***

(30) Direct deposit of recipient's retirement allowance as provided in Section 30 of this Act.

SECTION 8. A NEW SECTION OF KRS 16.510 TO 16.652 IS CREATED TO READ AS FOLLOWS:

(1) There are created and established:

(a) An excess benefit plan to be known as the State Police Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement system under KRS 16.510 to 16.652 that would otherwise be limited by 26 U.S.C. sec. 415; and

(b) A state fund to be known as the "State Police Retirement System Excess Benefit Fund" which shall consist of all the assets of the plan.

(2) The administration and assets of the plan shall be as set forth in Section 32 of this Act.

Section 9. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except

that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided~~[in KRS 61.552(7) and 61.555]~~, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. ***A lump sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.*** In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. ***Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded.*** Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;~~[and]~~

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; ***and***

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month***. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions***;

(33) "Objective medical evidence" means~~[medical histories;]~~ reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;~~[and]~~

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543***; and***

(35) "Month" means a calendar month.

Section 10. KRS 61.520 is amended to read as follows:

(1) Each department shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, mental health-mental retardation board, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) Once a department participates it shall thereafter continue to participate. ***Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.***

Section 11. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) ***(a)*** All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on~~[or after]~~ the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 12. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is issued by the State Treasurer:

(a) Each member may designate one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary.

(b) If multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive.

1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries.

2. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member.

3. If any or all multiple beneficiaries die after the first retirement allowance has been issued by the State Treasurer, the deceased beneficiary's estate shall receive a lump-sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive.

(c) This designation shall remain in full force and effect until changed by the member, except:

1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree.

2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary.

3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust or trustee, shall supersede the designation of all previous beneficiaries.

4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.

(2) If the member dies prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:

(a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(b) If the principal beneficiary is the one (1) person who is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries.

(d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.

(3) Prior to the member's retirement, a monthly benefit payable for life shall not be offered if the beneficiary is more than one (1) person, the member's estate, or a trust or trustee.

(4) When a notification of retirement has been filed at the retirement office:

(a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries.

(b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust or trustee.

(c) If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been issued by the State Treasurer, the member may designate another beneficiary on the member's notification of retirement.

(5) After the first retirement allowance payment is issued by the State Treasurer and subsequent thereto, a member shall not have the right to change his beneficiary, except that:

(a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member.

(b) The estate of the retired member becomes the beneficiary if the retired member had designated a ***person***[~~spouse~~] as beneficiary ***who was the spouse or who later married the member*** and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried ***to each other*** as of the date of the retired member's death.

(c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).

Section 13. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, to work less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee~~[, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board]~~ may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members who have service credit prior to July 1, 1992, or their employers, ***the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board*** may purchase service credit ***on behalf of the employee*** for previous years by paying the retirement system the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay the employer contributions plus interest and the employee shall pay the employee contributions plus interest. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 14. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems~~[or an employee of a parted employer]~~ who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees

Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee ***participating in one (1) of the state-administered retirement systems*** may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) ***(a)*** An employee ***participating in one (1) of the state-administered retirement systems***~~[who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958,]~~ may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, ***2000***~~[1988]~~, service credit obtained under ***the*** subsections~~[(1) to (5), (8) to (12), (14), (15), and (17) to (25)]~~ of this section ***which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase*** shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member~~[, upon request,]~~ if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems~~[or as an employee of a parted employer]~~. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600 ***or Section 4 of this Act***.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) ***Employees***[~~Members~~] who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) ***(a)*** Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by

paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave~~[granted prior to January 1, 1972]~~, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. ***Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one of the purchases.*** The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee ***elects to stop the installment payments,*** dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under paragraph(e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds ***pursuant to the rules in 26 U.S.C. sec. 401(a)(31)*** directly from a retirement plan ***or a deferred compensation arrangement*** maintained by his employer which is a qualified plan pursuant to ***26 U.S.C. sec. 401(a). Service credit may also be purchased***~~[Section 401(a) of the Internal Revenue Code or]~~ by a rollover of funds from ***a qualified retirement***~~[the]~~ plan pursuant to the rules specified in ***26 U.S.C. sec. 402(c).***~~[Section 402(c) of the Internal Revenue Code and]~~ The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in ***26 U.S.C. secs.***~~[Section]~~ 402(c) and~~[Section]~~ 401(a)(31)~~[of the Internal Revenue Code]~~. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System or, if younger, who has sixty (60) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement

Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(26) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the full actuarial cost as determined by the system. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

(27) An employee participating in one (1) of the state-administered retirement systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system the full actuarial cost of the service credit purchased. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

Section 15. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***[~~discharge~~], or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any ***employee***[~~member of the system~~] who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***[~~his honorable discharge therefrom~~], or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service

under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) ***Any employee participating in one (1) of the state-administered retirement systems***~~[A member]~~ eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) ***(a)*** Any ***employee participating in one (1) of the state-administered retirement systems***~~[member]~~ age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***~~[any other member]~~ who has sixty (60) months of service, at least twelve (12) of which are current service~~[(or his beneficiary if the member dies prior to retirement)]~~ shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in KRS 61.510(22). Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described KRS 61.560(4), by the employer and shall be deposited to the individual member's account.

(b) After August 1, 2000, an employee who purchased the maximum period of active military duty described in paragraph (a) of this subsection may purchase any qualified active military duty time in excess of the maximum by paying the retirement system the full actuarial cost as determined by the system. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any ***employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***~~[member of the Kentucky Employees Retirement System]~~ age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***~~[any member of the Kentucky Employees Retirement System or the State Police Retirement System]~~ who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system the full actuarial cost as determined by the system. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 16. KRS 61.575 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 61.510 to 61.692 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. ***Prior to the member's retirement, death, or refund in accordance with Section 21 of this Act, no funds shall be made available from the member contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two percent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 17. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost ***of converting***[~~in order that~~] the nonhazardous service ***to hazardous service from the date of participation to the date the payment is made***[~~be credited as hazardous service~~], or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) Except for the employee contribution by members of the Kentucky Employees Retirement System, the normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652. The employee contribution for a member of the Kentucky Employees Retirement System shall be seven percent (7%).

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 18. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, KRS 78.510 to 78.852, and KRS 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment, and other information the system may require. ***The notification of retirement shall not be filed more than six (6) months before the member's effective retirement date.***

(2) Within ten (10) days of the receipt of the notification of retirement form ***submitted within two (2) months of the effective date of retirement***, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary. ***If the member submits a notification of retirement form more than two (2) months prior to the effective retirement date, the system shall provide***

the estimated retirement allowance within forty-five (45) days of the member's effective retirement date.

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the State Treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed at the retirement office, if employment in a regular full-time position has been terminated.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first retirement allowance has been issued by the State Treasurer and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 19. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall ***not*** be ***eligible for an unreduced retirement allowance***[~~less than normal retirement age~~];

(c) The person's application shall be on file in the retirement office no later than ***twenty-four (24)***[~~twelve (12)~~] months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or KRS 78.510;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) ***A***[~~No~~] ***person's*** disability application based on the same claim of incapacity shall be accepted and ***reconsidered***[~~considered~~] for disability ***if***[~~for any person who has previously applied for and been denied disability benefits unless it is~~] accompanied by ***new objective medical*** evidence[~~ of a substantial change in the person's condition which shall satisfy subsection (4) of this section~~]. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position.

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

~~[(5) Persons who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.]~~

Section 20. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth (65th) birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to ***twenty-seven (27)***~~[thirty (30)]~~ years.~~[When the employee has accumulated total service of thirty (30) or more years, his total service shall be used in computing disability benefits. For employees hired on or after July 15, 1998, the total service and added service for determining disability benefits shall not exceed twenty-seven (27) years.]~~

Section 21. KRS 61.625 is amended to read as follows:

(1) A member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received if~~[:~~

~~(a)]~~ the member's employment has been terminated and the member is not participating in the same retirement system~~[;~~

~~(b) The member is employed in an employment status as defined in KRS 61.510(21)(a) to (d) that does not require the member to participate in the system; or~~

~~(c) The member has been laid off for ninety (90) days or more]~~.

(2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the

provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

(3) Refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.

Section 22. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency ***prior to August 1, 1998,*** shall have his retirement payments suspended for the duration of reemployment, except as provided in subsection (7) of this section. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;
5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) If a member is retired from a hazardous position, as defined by KRS 61.592, the member shall be permitted to seek and hold an elected city or county office under the provisions of this subsection:

(a) The member may receive the pay for the elected city or county office but shall not contribute to, receive benefits from, or otherwise participate in the office's retirement system; and

(b) The member's pension and benefits received because of retirement from the hazardous position shall not be affected if he holds an elected city or county office.

(8) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(9) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(10) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(11) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(12) (a) 1. A retired member of the Kentucky Employees Retirement System or the State Police Retirement System who, after initial retirement, is hired by an agency that participates in the Kentucky Employees Retirement System or the State Police Retirement System shall be considered to have been hired by the same employer.

2. If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(13) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's initial retirement date by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(14) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's initial retirement date.

(b) The retired member shall repay to the retirement system all benefits that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of initial retirement, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(15) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(16) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(17) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

Section 23. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require, notwithstanding the provisions of KRS Chapters 45 and 45A;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3)[~~ (a)~~] Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board[~~;~~

~~(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;~~

~~(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978~~].

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board ***may***[~~shall~~] nominate, not less than six (6) months before a term of office of a trustee is due to expire,[~~ at least~~] three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager; not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within ***four (4)***[~~three (3)~~] months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of ***eighty***[~~sixty~~] dollars ***($80)***[~~($60)~~] for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy-making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the secretary of the Personnel Cabinet;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation ***and meet the qualification requirements under 26 U.S.C. sec. 401(a)***. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation ***or qualification under 26 U.S.C. sec. 401(a)*** shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation ***and to meet the qualification requirements under 26 U.S.C. sec. 401(a)***.

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and ***may***[~~shall~~] receive the

agenda, board minutes, and other information distributed to trustees of the board ***upon request***. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

    1. In good faith;
    2. On an informed basis; and
    3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

    1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
    2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
    3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

    1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
    2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board

meetings, to the extent possible.

Section 24. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, ***licensed***[~~practicing~~] in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. ***The board may employ one (1) or more licensed mental health professionals as consultants to assist in making determinations where there is objective medical evidence of mental impairments.***

(2) (a) Each employee requesting disability retirement shall ***file at***[~~furnish~~] the retirement office[~~ with~~] the names and addresses of ***all, but no fewer than*** two (2)***,***[~~ or more~~] physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. ***If an employee fails to file, at the retirement office within six (6) months of the date the employee filed his notification of retirement, any of the information required by this subsection, the employee's application for disability benefits shall be void.***

(b) The employer shall file at the retirement office a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to ***one (1)***[~~two (2)~~] additional medical ***examiner***[~~examiners~~]. ***If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner.*** Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. ***If there is objective medical evidence of mental impairments, the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment.*** Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to file at the retirement office additional medical information or to appeal his denial for disability benefits by filing at the retirement office a request for a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may file at the retirement office a request for an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 25. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for ***twenty-seven (27)***[~~thirty (30)~~] year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial

Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection ***(2)***[~~(3)~~] of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system. The final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

Section 26. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to

61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property ***or as an economic circumstance as provided in***[~~pursuant to~~] KRS 403.190[~~(1)~~] in an action for dissolution of marriage[~~ if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2)~~].

(3) [~~Qualified domestic relations and ~~]Child support orders for current, owed, or to-be- owed child support, issued by a court or administrative agency shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(e).

Section 27. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a state fund to be known as "Kentucky Retirement Systems Insurance Fund."

(2) The fund is created for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits ***as provided in Section 28 of this Act*** to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries[~~ named in KRS 61.702~~].

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 28. KRS 61.702 is amended to read as follows:

(1) ***(a)*** The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems[~~, who are under age sixty-five (65),~~] to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. ***Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.***

(b) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over

the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty as defined in KRS 16.505(19), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary. The percentage of the monthly contribution paid for the spouse and dependents shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

Section 29. KRS 61.705 is amended to read as follows:

(1) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who had a minimum of forty-eight (48) months of service, a death benefit of five thousand dollars ($5,000) shall be paid. ***If the retired member had more than one (1) account in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System, the system shall pay only one (1) five thousand dollar ($5,000) death benefit.*** Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member ***or if the beneficiary was the spouse and they were divorced on the date of the retired member's death***, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

SECTION 30. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient.

(2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an Authorization for Deposit of Retirement Payment form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.

(3) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's office to the designated financial institution.

(4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new Authorization for Deposit of Retirement Payment form and filing the form at the retirement office in Frankfort. The last Authorization for Deposit of Retirement Payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(5) (a) A recipient may request to be paid by check issued by the State Treasurer instead of by electronic transfer by completing and filing at the retirement office a Request for Payment by Check form.

(b) The request shall be approved if:

1. The recipient certifies that he does not currently have an account with a financial institution;

2. The recipient's bank certifies that it does not participate in the electronic funds transfer program; or

3. The recipient shows that the requirement would create an undue hardship.

(c) The retirement office shall, every five (5) years, require the recipient to certify that the original conditions under which he requested payment by check continue. If the original conditions do not exist, the recipient shall complete an Authorization for Direct Deposit of Retirement Payment form and file it with the retirement office.

SECTION 31. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

There is created and established:

(1) An excess benefit plan to be known as the Kentucky Employees Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement system under KRS 61.515 to 61.705 that would otherwise be limited by 26 U.S.C. sec. 415.

(2) A state fund to be known as the Kentucky Employees Retirement System Excess Benefit Fund which shall consist of all the assets of the plan.

(3) The administration and assets of the plan shall be as set forth in Section 32 of this Act.

SECTION 32. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Employees Excess Benefit Plan established in Section 31 of this Act, the County Employees Excess Benefit Plan established in Section 39 of this Act, and the State Police Excess Benefit Plan established in Section 8 of this Act shall be administered by the board of trustees of the Kentucky Retirement Systems. The board shall have the same authority in its administration as it has in the administration of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System.

(2) The plans shall constitute qualified governmental excess benefit plans as provided in 26 U.S.C. sec. 415(m).

(3) All retired members and beneficiaries of the three (3) retirement systems administered by the Kentucky Retirement Systems whose effective retirement dates are July 1, 1998, or after, and whose retirement allowances have been limited by 26 U.S.C. sec. 415 shall be participants in the plans. Each member's participation in the plans shall be determined each fiscal year and will cease for any year in which the retirement allowance is not limited by 26 U.S.C. sec. 415.

(4) A participant shall receive a benefit equal to the difference between the retirement allowance otherwise payable from the system prior to any reduction or limitation required by 26 U.S.C. sec. 415 and the actual retirement allowance payable as limited by 26 U.S.C. sec. 415. The benefit shall be subject to withholding for applicable state and federal taxes. The benefit shall be paid in accordance with the retirement payment option selected by the member or beneficiary for the retirement allowance.

(5) (a) The board, in accordance with the recommendation of the actuary, shall determine the required contribution for each of the three (3) plans to pay benefits each fiscal year. The required contribution for each of the three (3) plans in each fiscal year shall be the total amount of benefits payable under this section to all participants plus the amount required to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.

(b) The required contribution shall be paid by the participating employers.

(c) The required contribution for each plan shall be deposited into the separate fund. The plan is intended to be exempt from federal income tax under 26 U.S.C. sec. 115 and 26 U.S.C. sec. 415(m)(1).

(d) The benefit liability of each plan shall be determined on a fiscal year basis, and contributions shall not be accumulated to pay benefits in future fiscal years. Any assets of the plans not used to pay benefits in the current fiscal year shall be used for payment of the administrative expenses of the plan for the current or future fiscal years or shall be paid to the appropriate retirement system as an additional employer contribution.

(6) The benefits payable from the plans shall be treated in accordance with Section 26 of this Act.

(7) The board shall promulgate administrative regulations to modify the benefits payable under the plans as necessary for the plans to be qualified under 26 U.S.C. sec. 415(m).

(8) The provisions of this section, and any administrative regulations promulgated as a result of this section, shall be applied retroactively to retired members, and beneficiaries, whose effective retirement dates are between July 1, 1998, and the effective date of this Act.

Section 33. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county

government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided~~[in KRS 61.552(7), 61.555, and 78.530]~~;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). ***A lump sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.*** If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. ***Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, sick leave except as provided in subsection (5) of Section 36 of this Act, and other items determined by the board shall be excluded.*** Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;[~~and~~]

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615*; and*

(32) "Month" means a calendar month.

Section 34. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city

legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) *(a)* All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

(b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 35. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, Armed Forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702;

(37) Death benefit, as provided by KRS 61.705;

(38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;~~[and]~~

(40) Disability procedure for members in hazardous positions as provided for in KRS 16.582***; and***

(41) Direct deposit of recipient's retirement allowance as provided for in Section 30 of this Act.

Section 36. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section.

(3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill ***each***~~[the]~~ employer ***with whom the employee accrued sick leave*** accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

(6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under

this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.

Section 37. KRS 78.640 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. ***Prior to the member's retirement, death, or refund in accordance with Section 21 of this Act, no funds shall be made available from the member contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two percent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 38. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705, except that members of the board, when acting for the County Employees Retirement System, shall be paid a per diem of ***eighty***[~~sixty~~] dollars ***($80)***[~~($60)~~], plus actual expenses.

(2) Expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources.

SECTION 39. A NEW SECTION OF KRS 78.520 TO 78.852 IS CREATED TO READ AS FOLLOWS:

There is created and established:

(1) An excess benefit plan to be known as the County Employees Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement systems under KRS 78.520 to 78.852 that would otherwise be limited by 26 U.S.C. sec. 415.

(2) A state fund to be known as the County Employees Retirement System Excess Benefit Fund which shall consist of all the assets of the plan.

(3) The administration and assets of the plan shall be as set forth in Section 32 of this Act.

SECTION 40. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any other statute to the contrary notwithstanding, the Executive Department of government shall accept from the unified prosecutorial system all accrued annual and sick leave balances and service credits of employees leaving the unified prosecutorial system and accepting appointments to the Executive Department. These leave balances shall be attested to by the former employer of the employee and shall not exceed those limits established by statute or administrative regulation for employees of the Executive Department. This provision shall apply to Executive Department employees who were contributing to the Kentucky Employees Retirement System or the State Police Retirement System on or after July 1, 2000.

Section 41. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the

member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. ***Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum***~~[The member shall pay the full actuarial cost of the service in the military reserves or the National Guard]~~. Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 42. The following KRS sections are repealed:

61.554 Persons employed by Legislative Research Commission for six legislative bienniums may purchase credit in Kentucky Employees Retirement System.

61.596 Service credit bonus for early retirement -- Payments by agencies -- Forfeiture upon reemployment.

Representative Geveden moved that the House concur in Senate Committee Substitute to **HB 537**. Agreed.

Representative Geveden moved that **HB 537**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94**, **Nays 1**. (See March 28, 2000 roll call on **HB 537** - Appendix.)

HB 537, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 537**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Message in regard to **SB 98**: The Senate has refused to concur in the House Committee Substitute and House Committee Amendment No. 1 Title to **SB 98** and respectfully requests concurrence of this Honorable Body.

Message in regard to **SB 113**: The Senate has refused to concur in House Floor Amendment No. 1, House Floor Amendment No. 2 Title, and House Floor Amendment No. 3 to **SB 113** and respectfully requests concurrence of this Honorable Body.

Message in regard to **SB 152**: The Senate has refused to concur in the House Committee Substitute, House Floor

Amendment No. 1 Title, House Floor Amendment No. 2, and House Floor Amendment No. 3 to **SB 152** and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 897**: The Senate has passed **HB 897** with Senate Committee Amendment and Senate Floor Amendment and respectfully requests concurrence of this Honorable Body. (Time: 6:15 p.m.)

Orders of the Day (Continued)

HB 488, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 488** is as follows:

On page 6, line 5, after the word "***regarding***" insert "***recipients,***"; and

On page 6, line 6, after the word "***subcontractors***" insert a comma "***,***"; and

On page 10, line 20, after the words "***brokers shall***" insert "***have all reports necessary for payment to the cabinet not later than the seventh of each month. The mandate shall also include a requirement that the cabinet shall pay brokers not later than the fifteenth of each month if the broker has submitted all required reports. A broker shall promptly reimburse subcontractors within three (3) business days of payment by the cabinet;***"; and

On page 10, line 21, delete line 21 in its entirety.

Representative Lee moved that the House concur in Senate Floor Amendment No. 2 to **HB 488**. Agreed.

Representative Lee moved that **HB 488**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 28, 2000 roll call on **HB 488** - Appendix.)

HB 488, as amended by the Senate, was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 488**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 103, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 103** is as follows:

HB 103, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.728 is amended to read as follows:

All law enforcement agencies and investigative bodies shall notify the ***Department***~~[Division]~~ of Charitable Gaming of any investigation or prosecution of any violation of the charitable gaming laws as soon as reasonably possible after commencing the investigation or prosecution and shall coordinate any investigation with the ***department***~~[division]~~.

Section 2. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Department***~~[Division]~~" means the ***Department***~~[Division]~~ of Charitable Gaming within the ***Public Protection and Regulation***~~[Justice]~~ Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets***, or electronic or mechanical representations thereof,*** divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated

break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the ***department***~~[division]~~ are conducted, ***including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as***~~[and examples of which include]~~ fairs, festivals, carnivals, ***and*** bazaars~~[, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding]~~;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

  (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

  (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include***:***

  (a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; ***and***

  (b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the department.

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the ***department***~~[division]~~;

(18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, ***excluding***~~[including]~~ bingo ***played***~~[held]~~ at a charity fundraising event;

(20) "Immediate family" means:

  (a) Spouse and parents-in-law;

  (b) Parents and grandparents;

  (c) Children and their spouses; and

  (d) Siblings and their spouses; and

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility***;***

(22) "Secretary" means the secretary of the Public Protection and Regulation Cabinet;

(23) "Commissioner" means the commissioner of the Department of Charitable Gaming within the Public Protection and Regulation Cabinet;

(24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under subsection (9)(g) of Section 8 of this Act;

(25) "Year" means calendar year except as used in subsection (7) of Section 13 of this Act, subsection (4) of Section 11 of this Act, and KRS 238.547(1), when "year" means the licensee's license year; and

(26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device.

Section 3. KRS 238.510 is amended to read as follows:

(1) The ***Department***[~~Division~~] of Charitable Gaming is created as a ***department***[~~division~~] within the ***Public Protection and Regulation***[~~Justice~~] Cabinet. The ***department***[~~division~~] shall license and regulate the conduct of charitable gaming and license and regulate charitable organizations that desire to engage in charitable gaming, charitable gaming facilities, manufacturers, and distributors in the Commonwealth of Kentucky in accordance with the provisions of this chapter.

(2) The ***department shall be headed by a commissioner who shall be appointed by the Governor upon recommendation of the secretary. The commissioner shall employ staff***[~~ secretary of justice shall employ a division director, an assistant director, and other staff~~] as may be necessary to administer and enforce the provisions of this chapter.

(3) All ***department***[~~division~~] staff shall be classified and employed in accordance with applicable personnel requirements of the Personnel Cabinet ***in accordance with***[~~. The division director shall be a nonmerit employee and all other staff shall be merit employees with all rights and privileges afforded under~~] KRS Chapter 18A.

(4) No employee of the ***department***[~~division~~] during his or her term of employment shall be an officer in a charitable organization that is licensed to conduct charitable gaming or be involved in the conduct of charitable gaming as a member of a licensed charitable organization. No employee of the ***department***[~~division~~] during his or her term of employment shall be licensed as a manufacturer, distributor, or charitable gaming facility, or have a financial interest in any business that is licensed as a manufacturer, distributor, or charitable gaming facility.

(5) (a) The commissioner shall appoint qualified persons who shall be employed as investigators. The investigators shall possess the general police powers of peace officers in all parts of the Commonwealth. The commissioner may possess police powers granted under this section, if qualified. The persons granted police powers under this section shall not qualify for hazardous duty coverage under the Kentucky Employees Retirement System.

(b) The investigators may exercise their authority if, based upon their own inquiries or as a result of information received, they have reason to believe that a person has engaged in, is engaging in, or is about to engage in acts constituting violations of this chapter or other applicable law. The investigators may:

1. Administer oaths and affirmations;

2. Order the attendance of witnesses or proffering of information and documentation;

3. Collect evidence;

4. Serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations;

5. Execute arrest warrants and search warrants for criminal violations revealed as a result of their investigations; and

6. Arrest upon probable cause without warrant any person found in the act of committing criminal violations of this chapter or other applicable law.

Section 4. KRS 238.515 is amended to read as follows:

The ***department***[~~division~~] shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the ***department***[~~division~~] shall have the following powers and duties:

(1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;

(2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;

(3) Prescribing reasonable fees for licenses;

(4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly

accounted for;

(5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the ***department***[~~division~~] shall have the authority to issue administrative subpoenas and summonses. The ***department***[~~division~~] shall also establish toll-free telephone service for receiving complaints and inquiries;

(6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;

(7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;

(8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the ***department***[~~division~~]; and

(9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter.

Section 5. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

(a) The secretary of the ***Public Protection and Regulation***[~~Justice~~] Cabinet or his designee;

(b) The Attorney General or his designee;

(c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;

(d) One (1) representative from the Kentucky Charitable Gaming Association;

(e) One (1) certified public accountant; and

(f) Four (4) members selected from the public at large.

The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

(2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.

(3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the ***department***[~~division~~] and to the General Assembly ***but shall not establish policy or become directly involved in***[~~to assist in establishing effective policy for~~] the licensing and regulation of charitable gaming ***by the department***.

(4) The commission shall meet quarterly or as otherwise directed by the ***department***[~~division~~]. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership***, and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each***. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 6. KRS 238.525 is amended to read as follows:

(1) Licenses shall be issued by the ***department***[~~division~~] on an annual or biennial basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the ***department***[~~division~~] in any manner it deems appropriate to facilitate efficient licensing. The ***department***[~~division~~] shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.

(2) The ***department***[~~division~~] may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.

(3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the ***department***[~~division~~], with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued under KRS 238.535 shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the ***department***[~~division~~] with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant; any employee or member of an applicant who has been designated as chairperson of the charitable gaming activity; the applicant itself; and any individual with a ten percent (10%) or more financial interest in the applicant. The ***department***[~~division~~] shall require the fingerprinting of all applicants for licensure under KRS 238.530

and 238.555 and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under KRS 238.535, who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The ***department***[~~division~~] may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.

(4) No applicant shall be licensed ***and no license holder shall be able to maintain a license*** if an individual associated with the applicant ***or license holder*** in a capacity listed in subsection (3) of this section or the applicant ***or license holder*** itself has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.

(5) No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (3) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The ***department***[~~division~~] may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.

(6) If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the ***department***[~~division~~] in writing within thirty (30) days of the date the change occurred.

Section 7. KRS 238.530 is amended to read as follows:

(1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the person is licensed by the ***department***[~~division~~] as a distributor. The ***department***[~~division~~] shall charge a license fee not to exceed one thousand dollars ($1,000).

(2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the ***department***[~~division~~] as a manufacturer. The ***department***[~~division~~] shall charge a license fee not to exceed ***one thousand***[~~five hundred~~] dollars ***($1,000)***[~~($500)~~].

(3) No person who is licensed as a charitable organization, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or manufacturer. No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.

(4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the ***department***[~~division~~] and shall submit as part of the application process the following:

(a) The full name, address, date of birth, and Social Security number of the applicant;

(b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;

(c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;

(d) Federal employer tax number;

(e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;

(f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and

(g) Any other information the ***department***[~~division~~] deems appropriate.

(5) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the ***department***[~~division~~] to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be available for inspection by the ***department***[~~division~~] at reasonable times, and all records shall be maintained for a minimum of three (3) years. The ***department***[~~division~~] may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the ***department***[~~division~~].

(6) A distributor who does not receive payment in accordance with the terms of its sales or lease agreement from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall notify the ***department***[~~division~~] of the delinquency in writing in a form and manner prescribed by the ***department***[~~division~~]. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the ***department***[~~division~~] of the delinquency in writing in a form and manner prescribed by the ***department***[~~division~~].

(7) A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.

(8) A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor or a charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter.

(9) A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.

(10) No officer, owner, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates, shall, with respect to a licensed charitable organization:

- (a) Manage or otherwise be involved in the conduct of charitable gaming;
- (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
- (c) Handle any moneys generated in the conduct of charitable gaming;
- (d) Advise a licensed charitable organization on the expenditure of net receipts;
- (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
- (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
- (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;
- (h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;
- (i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility; or
- (j) Donate or give any prize to be awarded in the conduct of charitable gaming.

Section 8. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the ***department***[~~division~~]. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

- (a) Bingo in which the gross receipts do not exceed a total of ***twenty-five***[~~fifteen~~] thousand dollars ***($25,000)***[~~($15,000)~~] per year;
- (b) A raffle or raffles for which the gross receipts do not exceed ***twenty-five***[~~fifteen~~] thousand dollars ***($25,000)***[~~($15,000)~~] per year; and
- (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed ***twenty-five***[~~fifteen~~] thousand dollars ***($25,000)***[~~($15,000)~~] per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed ***twenty-five***[~~fifteen~~] thousand dollars ***($25,000)***[~~($15,000)~~].

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the ***department***[~~division~~] in writing, on a ***simple*** form issued by the ***department***[~~division~~], of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter ***relating to the conduct of charitable gaming***, except:

- (a) Payment of the fee imposed under the provisions of KRS 238.570; and
- (b) The ***quarterly*** reporting requirements imposed under the provisions of KRS 238.550***(5)***[~~(2)~~], unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the department a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the department. Upon receipt of the yearly financial report, the department shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall revoke the exemption. The organization may request an appeal of this revocation pursuant to Section 15 of this Act. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

- (a) Report the amount to the ***department***[~~division~~]; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the ***department***[~~division~~] shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the ***department***[~~division~~] determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the ***department***[~~division~~] determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the ***department***[~~division~~], reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "***reasonable progress in*** accomplishing its charitable purposes" means ***the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish*** relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3)***. In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph***; and

(d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the ***department***[~~division~~]; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the ***department***~~[division]~~; and

(l) Any other information the ***department***~~[division]~~ deems appropriate.

(10) The ***department***~~[division]~~ may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(11) The ***department***~~[division]~~ shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(12) (a) A licensed charitable organization may place its charitable gaming license in escrow if:

1. The licensee notifies the department in writing that it desires to place its license in escrow; and

2. The license is in good standing and the department has not initiated disciplinary action against the licensee.

(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under Section 9 of this Act.

(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:

1. The charitable organization continues to qualify for licensure;

2. The charitable organization has not engaged in charitable gaming during the escrow period; and

3. The charitable organization pays a reinstatement fee established by the department.

Section 9. KRS 238.536 is amended to read as follows:

(1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. ***A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the benefits or financial gain of an individual.*** Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. ***The following fees and taxes shall be excluded from the calculation of the percentage retained, retroactive to calculations made for calendar year 1999:***

(a) All fees paid to the ***department***~~[division]~~ during the calendar year***:***

(b) Any sales or use taxes levied under KRS Chapter 139 on charitable gaming supplies and equipment that are paid by a licensed charitable organization during the calendar year; and

(c) Any federal excise taxes levied under 26 U.S.C. secs. 4401 and 4411 and paid by a licensed charitable organization during the calendar year~~[shall be excluded from the calculation of percentage retained]~~.

(2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

(a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of ***six (6) months***~~[one (1) year]~~ and shall be required to submit to the ***department***~~[division]~~ an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the ***calendar year in which the probation is imposed***~~[probationary period]~~;

(b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall ***be placed on probation***~~[have its license suspended]~~ for a period of one (1) year ***and shall be required to submit to the department a financial plan as described in paragraph (a) of this subsection. The department shall conduct a six (6) month review of the charitable gaming activities of a licensee placed on probation pursuant to this subsection to evaluate the licensee's compliance with its financial plan***; ~~[and]~~

(c) If the percentage retained falls ***between twenty-nine and nine-tenths percent (29.9%) and twenty-five percent (25%), the licensee shall be placed on probation for a period of one (1) year, shall submit to the department an acceptable financial plan as described in paragraph (a) of this subsection, and shall participate in a mandatory training program designed by the department. The department shall conduct a quarterly review of the licensee's activities to evaluate the licensee's compliance with its financial plan and its progress toward achievement of the forty percent (40%) threshold during the probationary period;***

(d) If the percentage falls below ***twenty-five***~~[thirty]~~ percent ***(25%)***~~[(30%)]~~ or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive ***calendar year***~~[time]~~, the licensee shall have its license suspended for a period of ***one (1) year; and***~~[two (2) years]~~

(e) For purposes of paragraphs (a), (b), (c), and (d) of this subsection, periods of probation and suspension shall commence, unless appealed, from the date the department notifies the licensee of its failure to satisfy the retention requirement for the previous calendar year. If a probation or suspension is appealed, the action shall commence on the date final adjudication of the matter is complete.

(3) Any licensee that has had its license suspended under the provisions of subsection (2)***)d)***~~[(b) or (c)]~~ of this section shall be required to submit to the ***department***~~[division]~~ an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license. ***As a condition of reinstatement, the licensee shall be on probation for a period of one (1) year and shall be subject to quarterly review by the department in accordance with paragraph (c) of subsection (2) of this section.***

(4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke***,*** ***suspend,*** or deny its license for failure to meet the forty percent (40%) retention threshold prior to ***the effective date of this Act***~~[April 1, 1998]~~, may petition the ***department***~~[division]~~ for reconsideration of its action or proposed action. Upon petition for reconsideration, the ***department***~~[division]~~ shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The ***department***~~[division]~~ shall give credit for the amount of time a license has been revoked in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.

Section 10. KRS 238.540 is amended to read as follows:

(1) Charitable gaming shall be conducted by a licensed charitable organization at ***the***~~[only one (1)]~~ location***,***~~[and at the]~~ date***,*** and time which shall be stated on the license. A license holder shall notify the ***department***~~[division]~~ at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the ***department***~~[division]~~ shall be received by the licensee prior to the conduct of charitable gaming at a new location.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the ***department***~~[division]~~, law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the ***administration and conduct of the*** charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. ***No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual.*** Any effort or attempt to disguise any other type of compensation ***or private inurement*** shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.

(6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. ***An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the limitation of five thousand dollars ($5,000) per twenty-four (24) hour period set forth in subsection (1) of Section 11 of this Act.***

Section 11. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to ***one (1) session per day,*** two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period. No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b) ***A licensed charitable organization may provide card-minding devices for use by players of bingo games. If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times. The department shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them;***

(c) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(d)[~~(c)~~]Charity game tickets may be sold, with prior approval of the ***department***[~~division~~]:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or
2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(e)[~~(d)~~]An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the ***department***[~~division~~], only at the address of the location designated on the license to conduct charitable gaming, and only during bingo sessions. The ***department***[~~division~~] shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games. Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400). Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement. Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the ***department***[~~division~~]. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) ***With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:***

(a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the ***department;***[~~division.~~]

(b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100)***;***[~~.~~]

(c) The department may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed five thousand dollars ($5,000) for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian;

(d) The department may grant approval for a licensed charitable organization to play special limited charitable

games at a charity fundraising event authorized under this section. The department shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with subsection (8) of Section 2 of this Act; and

(e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The *department*[~~division~~] shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547.

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

Section 12. KRS 238.550 is amended to read as follows:

(1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization.

(2) Within two (2) business days after the completion of a charitable gaming event or session, all *gross receipts and* adjusted gross receipts shall be deposited[~~ within two (2) business days~~] into *one*[~~a~~] checking account devoted exclusively to charitable gaming. *This checking account shall be designated the "charitable gaming account," and the licensed charitable organization shall maintain its account at a financial institution located in the Commonwealth of Kentucky. No other funds may be deposited or transferred into the charitable gaming account.*

(3) All payments for charitable gaming expenses, *payments made for* prizes purchased, and any charitable donations from charitable gaming receipts shall be made from *the charitable gaming*[~~this checking~~] account and *the*[~~any~~] payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. *No check drawn on the charitable gaming account may be made payable to "cash," or "bearer," except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to "cash" or "bearer," if these start-up funds are redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words "charitable gaming account" and shall contain the organization's license number on the face of each check. Payments for charitable gaming expenses, prizes purchased, and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations.* The *department*[~~division~~] may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(4) A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.

(5)[~~(2)~~]Accurate records and books shall be maintained by each *organization exempt from licensure under subsection (1) of Section 8 of this Act and each* licensed charitable organization for a period of three (3) years. *Department*[~~Division~~] staff shall have access to these records at reasonable times. *Licensed charitable organizations and exempt organizations shall maintain their charitable gaming records at their offices or places of business within the Commonwealth of Kentucky as identified in their license applications or applications for exempt status.* All licensed charitable organizations shall be required to submit reports to the division at least quarterly. *An exempt organization shall submit a yearly financial report in accordance with subsection (2) of Section 8 of this Act, and failure to file this report shall constitute grounds for revocation of the organization's exempt status. Failure by a licensed charitable organization to file reports required under this chapter shall constitute grounds for revocation of the organization's license or denial of the organization's application to renew its license in accordance with subsection (3) of Section 14 of this Act. Reports filed by a licensed charitable organization*[~~These reports~~] shall include, but shall not be limited to, the following information:

(a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;

(b) The amounts or values of all prizes paid out during the reporting period, including a listing of all prizes donated *having a fair market value in excess of fifty dollars ($50)*, the names of donors, and the fair market value of the donated prizes;

(c) The names and addresses of all persons who are winners of prizes *having a fair market value* of six hundred dollars ($600) or more;

(d) All expenses paid and the names and addresses of all persons to whom expenses were paid;

(e) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

(f) Any other information the ***department***[~~division~~] deems appropriate.

(6)[~~(3)~~]No licensed charitable organization shall incur ***charitable gaming*** expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following ***charitable gaming*** expenses:

(a) Charitable gaming supplies and equipment;

(b) Rent;

(c) Utilities;

(d) Insurance;

(e) Advertising;

(f) Janitorial services;

(g) Bookkeeping and accounting services;

(h) Security services;

(i) Membership dues for its participation in any charitable gaming trade organization; and

(j) Any other expenses the ***department***[~~division~~] may determine by administrative regulation to be legitimate.

No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.

Section 13. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The ***department***[~~division~~] shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors. Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;

(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;

(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant; and

(f) Any other information the ***department***[~~division~~] deems appropriate.

(3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;

(g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or

(i) Donate or give any prize to be awarded in the conduct of charitable gaming.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment

necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The ***department***[~~division~~] by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the ***department***[~~division~~]. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:

(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;

(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.

(6) A licensed charitable gaming facility shall report at least quarterly to the ***department***[~~division~~] and shall provide any information concerning its operation that the ***department***[~~division~~] may require.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the ***department***[~~division~~], law enforcement officials, and other interested officials.

Section 14. KRS 238.560 is amended to read as follows:

(1) The ***department***[~~division~~] may investigate allegations of wrongdoing upon complaint or upon its own volition. The ***department***[~~division~~] by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.

(2) In carrying out its enforcement responsibilities, the ***department***[~~division~~] may:

(a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;

(b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;

(c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and

(d) Conduct in-depth audits and investigations, when warranted.

(3) The ***department***[~~division~~] may take appropriate administrative action against any person licensed under this chapter for any violation of the provisions of this chapter or administrative regulations promulgated thereunder. The ***department***[~~division~~] may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand, and levy a fine. An administrative fine shall not exceed one thousand dollars ($1,000) for each offense. ***The department may deny the issuance of a license or a license renewal if the applicant or licensee has failed to pay a fine levied by the department.*** The ***department***[~~division~~] shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the ***history of previous violations and the*** nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.

(4) The ***department***[~~division~~] may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected.

(5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the ***department***[~~division~~] in carrying out its enforcement responsibilities.

(6) The ***department***[~~division~~] shall report any activity or action which would constitute a criminal offense to the appropriate authorities in the county where the activity or action occurred and to the Attorney General.

Section 15. KRS 238.565 is amended to read as follows:

(1) A license holder may appeal any administrative action taken under KRS 238.560. A license holder shall be notified in writing of any action to be taken against him. The notification may be delivered in person or mailed by certified mail, return receipt requested, to the last known address of the license holder. ***Service of notification of administrative action, whether by hand delivery or by certified mail, shall be deemed complete if the license holder fails or refuses to accept delivery. For service by hand delivery, notification shall be deemed received upon acceptance of delivery or upon failure or refusal to accept delivery, and the person affecting service on behalf of the department shall record the fact of the failure or refusal. For service by certified mail, the notification of administrative action shall be deemed received when the license holder accepts delivery or fails or refuses to accept delivery at the last known address.*** The notification shall specify the charges against the license holder***, specify the proposed administrative sanction,*** and advise him of his right to appeal the decision within ten (10) days of the date of receipt of the notification.

(2) Upon receipt of an appeal, the ***department***[~~division~~] shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.

(3) Any provisions of KRS Chapter 13B notwithstanding, within twenty (20) days after the conclusion of a hearing, the hearing officer shall prepare and present to the ***commissioner***[~~secretary of justice through the division director~~] a recommended order based on findings of fact and conclusions of law. Within thirty (30) days of receipt of the recommended order, the ***commissioner***[~~secretary of justice~~] shall affirm, reject, or modify, in whole or in part, the recommended order and shall issue a final order. The final order shall be the final administrative action on the matter and a copy of the final order shall be mailed to the license holder, by certified mail, return receipt requested.

(4) Any administrative action taken under this section shall, upon appeal, be stayed until a final order is issued, with the exception of a summary suspension. The ***department***[~~division~~] may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.

(5) A final order ***of the commissioner*** may be appealed to Franklin Circuit Court in accordance with KRS Chapter 13B. ***If the license holder against whom administrative action is proposed does not request an appeal of the action, the department shall enter a final order imposing the proposed administrative action.***

Section 16. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of four-tenths of one percent (0.4%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the ***department***[~~division~~] all moneys due on a quarterly basis. ***Failure by a licensed charitable organization to timely remit the fee required under this subsection upon notice of delinquency shall constitute grounds for disciplinary action in accordance with Section 14 of this Act.***

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the ***Public Protection and Regulation***[~~Justice~~] Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the ***department***[~~division~~] shall be deposited in this account. Moneys in this account shall be expended by the ***department***[~~division~~] only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the ***department***[~~division~~] shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.

(3) If the provision of subsection (1) of this section that imposes a fee of four-tenths of one percent (0.4%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.

  (a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the ***department***[~~division~~].

  (b) The ***department***[~~division~~] may require a bond from distributors in accordance with the administrative regulations promulgated by the ***department***[~~division~~].

(4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the

highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

Section 17. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutory-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Division of Kentucky State Medical Examiners Office.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.
            (2) Education Professional Standards Board.
        (b) Department for Libraries and Archives.
        (c) Kentucky Arts Council.
        (d) Kentucky Educational Television.
        (e) Kentucky Historical Society.

(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of General Counsel.
(g) Office of Public Affairs.
(h) Office of Personnel Management.
(i) Office of Minority Affairs.
(j) Office of Environmental Affairs.
(k) Office of Policy and Budget.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.

(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.
(n) Department of Charitable Gaming.

7. Cabinet for Families and Children:
(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Aging Services.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Office of Capital Plaza Operations.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

    (w) Kentucky Are Health Insurance Authority.

10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor-Management Relations and Mediation.
    (m) Office of General Counsel.
    (n) Workers' Compensation Funding Commission.
    (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of General Counsel.
13. Cabinet for Workhorse Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workhorse Analysis and Research.
    (o) Office for Administrative Services.

(p) Office for Policy and Budget.
(q) Office of Personnel Services.
(r) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Are.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Post secondary Education.
(a) Kentucky Commission on Community Volunteerism and Service.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. Office of the Chief Information Officer.

Section 18. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
(a) State Police officers;
(b) City, county, and urban-county police officers;
(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
(d) State or public university safety and security officers appointed pursuant to KRS 164.950;
(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
(f) Airport safety and security officers appointed under KRS 183.880;
(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and
(h) Division of Insurance Fraud Investigators appointed under KRS 304.47-040.

(2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:
(a) Deputy coroners;
(b) Deputy constables;
(c) Deputy jailers;
(d) Deputy sheriffs under KRS 70.045 and 70.263(3);
(e) Officers appointed under KRS 61.360;
(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of

education;

(g) Private security officers;~~[and]~~

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080*; and*

(i) Investigators employed by the Department of Charitable Gaming in accordance with Section 3 of this Act.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables; and

(d) Jailers.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

Section 19. The General Assembly hereby confirms Executive Order 98-905 of the Public Protection and Regulation Cabinet, to the extent it is not otherwise confirmed by this Act. This executive order creates the Department of Charitable Gaming within the Public Protection and Regulation Cabinet, including the Office of General Counsel, Division of Licensing and Compliance, and Division of Enforcement; and it abolishes the Division of Charitable Gaming within the Justice Cabinet and transfers all personnel, files, equipment, and funding to the Department of Charitable Gaming within the Public Protection and Regulation Cabinet.

Section 20. (1) The Interim Joint Committee on Licensing and Occupations is directed to study during the 2000-2001 interim, the following issues related to charitable gaming:

(a) The impact of the 40% Rule on charitable organizations, with particular emphasis on charitable organizations located in areas that are in close proximity to competitive forms of gaming, such as riverboat casinos;

(b) Development of a reasonable and workable method of establishing facility rental rates, to include a review of basing rental rates on attendance or gross receipts;

(c) The impact of inflation on charitable gaming expenses and the need to adjust accordingly prize limits and other policies limiting gross receipts; and

(d) Any other issue brought to the attention of the committee.

(2) The Interim Joint Committee on Licensing and Occupations shall conduct the study in cooperation with the Department of Charitable Gaming and the committee is encouraged to seek input from the:

(a) Kentucky Charitable Gaming Advisory Committee;

(b) Kentucky Charitable Gaming Association;

(c) Licensed charitable organizations, manufacturers, distributors, and facility operators; and

(d) Any other interested individuals or groups.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 103** is as follows:

On page 6, by deleting lines 10 through 27 in their entirety; and

On page 7, by deleting lines 1 through 4 in their entirety and inserting in lieu thereof the following:

"*(5) The commissioner shall appoint charitable gaming investigators who shall have the powers of peace officers throughout the Commonwealth; however, those powers shall be limited to:*

(a) Enforcement of the provisions of KRS Chapter 238, relating to charitable gaming;

(b) Violations of KRS Chapter 528, relating to:

1. Unlicensed and illegal charitable gaming;

2. Gambling offenses committed on licensed charitable gaming premises; and

3. Gambling offenses committed in conjunction with charitable gaming;

(c) Violations of KRS Chapter 514, relating to theft, embezzlement, or other illegal diversions of charitable gaming proceeds;

(d) Violations of KRS Chapters 516 and 517, relating to forgery and fraud in the conduct of charitable gaming;

(e) Violations relating to the damage or destruction of real or personal property owned or leased by a charitable gaming licensee; and

(f) Violation of any criminal felony offense committed:

1. On licensed charitable gaming premises; and

2. In the presence of a charitable gaming investigator.

(6) Charitable gaming investigators shall satisfy the certification standards established by the Department of Criminal Justice Training pursuant to KRS Chapter 15. The commissioner may possess peace officer powers granted under subsection (5) of this section, if he or she is duly qualified. Charitable gaming investigators shall not qualify for hazardous duty coverage under the Kentucky Employees Retirement System.

(7) Charitable gaming investigators so appointed shall not possess peace officer powers other than those provided in subsection (5) of this section.".

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 103** is as follows:

On page 1, line 19, after the word "*or*", by deleting the words "*electronic or mechanical*", and insert in lieu thereof the words "*card-minding device*".

The Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 103** is as follows:

On page 19, line 16, after "(10)" by inserting the following:

"*An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars ($150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsection (2) and (9) of this section.*

(11)";

On page 19, line 18, by bracketing and striking through "(11)" and inserting "*(12)*" in front of the opening bracket; and

On page 19, line 23, by deleting "*(12)*" and inserting "*(13)*" in lieu thereof.

Representative Stumbo moved that the House concur in the Senate Committee Substitute, Senate Floor Amendment No. 1, Senate Floor Amendment No. 2, and Senate Floor Amendment No. 4 to **HB 103**. Agreed.

Representative Stumbo moved that **HB 103**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 84, Nays 6**. (See March 28, 2000 roll call on **HB 103** - Appendix.)

HB 103, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 103**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 875, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 875** is as follows:

HB 875, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-020 is amended to read as follows:

As used in this subtitle:

(1) "Agent" means an individual or business entity required to be licensed and appointed under the laws of this state to sell, solicit, or negotiate insurance or annuity contracts.

(2) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity.

(3) "Home state" means the District of Columbia and any state or territory of the United States in which a licensee maintains his or her principal place of residence or principal place of business and is licensed by that state.

(4) A "general lines" agent is an agent who transacts any one (1) or more of the following kinds of insurance:

(a) Property insurance;

(b) Casualty insurance;

(c) Surety insurance;

(d) Marine and transportation insurance;

(e) Health insurance, when transacted for an insurer also represented by the same agent as to property or causality insurance; and

(f) Mortgage guaranty insurance.

(5) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

(6) "Limited line credit insurance agent " means an individual or business entity who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(7) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract.

(8) "Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer.

(9) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(10) "Terminate" means the cancellation of the relationship between an agent and the insurer or the termination of an agent's authority to transact insurance.

(11) "Uniform business entity application" means the current version of the National Association of Insurance Commissioners Uniform Business Entity Application for resident and nonresident business entities.

(12) "Uniform application" means the current version of the National Association of Insurance Commissioners Uniform Application for resident and nonresident agent licensing.

~~[An "agent" is an individual, firm, partnership, limited partnership, corporation, or limited liability company appointed by an insurer to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts.]~~

Section 2. KRS 304.9-030 is amended to read as follows:

(1) *Unless denied a license under this subtitle, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license*~~[A "general lines" agent is an agent who transacts any one (1) or more of the following kinds of insurance:~~

~~(a) Property insurance;~~

~~(b) Casualty insurance;~~

~~(c) Surety insurance;~~

~~(d) Marine and transportation insurance;~~

~~(e) Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance; and~~

~~(f) Mortgage guaranty insurance]~~.

(2) *An insurance agent may receive qualification for a license in one (1) or more of the following lines of authority:*

(a) Life--insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) Health--insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(c) Property--insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) Casualty--insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(e) Variable life and variable annuity products--insurance coverage provided under variable life insurance contracts, variable annuities, or any other life insurance or annuity product that reflects the investment experience of a separate account;

(f) Limited line insurance as identified in KRS 304.9-230;

(g) Marine and transportation insurance as defined in KRS 304.5-080;

(h) Mortgage guaranty insurance as defined in KRS 304.5-100; and

(i) Any other line of insurance authorized by Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.

[~~A "life" agent is an agent who transacts life insurance or annuity business. An agent may be appointed for life insurance only, if the insurer is a life and health insurer.~~

~~(3) A "health" agent is an agent who transacts health insurance only, whether licensed by a life insurer or other than life insurer.~~

~~(4) A "life and health" agent is an agent who transacts life insurance or annuity business, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance.~~]

Section 3. KRS 304.9-035 is amended to read as follows:

Any ***insurer***[~~insurance company~~] shall be liable for the acts of its agents when the agents are acting in their capacity as representatives of the ***insurer***[~~insurance company~~] and are acting within the scope of their authority.

Section 4. KRS 304.9-080 is amended to read as follows:

(1) ***An individual or business entity shall not sell, solicit, or negotiate insurance in this state unless the individual or business entity is licensed for that line of authority in accordance with this subtitle.***

(2) No ***individual or business entity***[~~person~~] shall in this state be, act as, or hold himself ***or herself*** out as ***a***[~~an agent, solicitor,~~] consultant[~~,~~] or adjuster unless then licensed as ***a***[~~an agent, solicitor,~~] consultant[~~,~~] or adjuster respectively.

[~~(2) No agent, or solicitor shall solicit or take applications for, procure or place for others any kind of insurance as to which he is not then licensed.~~]No consultant shall act as ***a consultant***[~~such~~] with respect to any kind of insurance as to which he ***or she*** is not then licensed as a consultant.

(3) A consultant license must cover either or both of the following categories, as selected by the licensee:

(a) General lines;

(b) Life and health.

A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.

(4) No ***individual***[~~person~~] licensed as a consultant shall act as a consultant until he ***or she*** has filed with the commissioner a bond or insurance as prescribed in KRS 304.9-330.

(5) Except as provided in KRS 304.9-410 ***and subsection (3) of Section 21 of this Act***, no agent shall place, and no insurer shall accept, any insurance with any insurer as to which ***the agent***[~~he~~] does not then hold a license and appointment as agent under this subtitle.

(6) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

Section 5. KRS 304.9-085 is amended to read as follows:

(1) A "managing general agent" is an individual ***or business entity***[~~, firm, or corporation~~] appointed by an insurer to solicit applications from agents for insurance contracts or to negotiate insurance contracts on behalf of an insurer, and if authorized to do so by an insurer, to effectuate and countersign insurance contracts.

(2) No ***individual or business entity***[~~person~~] shall in this state be, act as, or hold himself ***or herself*** out as a managing general agent unless then licensed as a managing general agent. In order to qualify for a managing general agent license, ***an individual***[~~a person~~] shall:

(a) Hold a general lines[~~ insurance~~] agent license and be appointed by each authorized insurer the ***licensee***[~~person~~] holds the contract to represent;

(b) If a nonresident, hold a nonresident general lines[~~ insurance~~] agent license and be appointed by each authorized insurer the ***licensee***[~~person~~] represents in Kentucky. Nonresidents are subject to the restrictions of KRS 304.9-140; and

(c) Hold a surplus lines broker license if any unauthorized insurers are represented or used.

In order for a ***business entity***[~~corporation or firm~~] to qualify for a managing general agent license, all ***individuals***[~~persons~~] acting on behalf of the corporation or firm under its license shall be licensed general lines[~~ insurance~~] agents.

(3) As used in this chapter, "agent" includes managing general agent unless the context requires otherwise.

(4) A managing general agent is a representative of the insurers which the managing general agent holds a contract to represent. Such insurers are liable for the acts of the managing general agent in representing the insurers.

(5) The commissioner shall issue managing general agent licenses to expire on March 31, 1988, and to be renewed biennially thereafter.

Section 6. KRS 304.9-090 is amended to read as follows:

(1) The definition of[~~ agent, solicitor or~~] consultant shall not be deemed to include [~~:~~

~~(1) Salaried employees in the office of a general lines agent, which employees devote full time to clerical and administrative services, with incidental taking of insurance applications and receiving premiums in the office of the employer agent if the~~

~~employee does not receive any commissions on such applications and his compensation is not varied by the volume of applications or premiums taken or received by such employee;~~

~~(2)~~]the supervising managing general agent (except as defined in KRS 304.9-085) or supervising officer or employee of an insurer who solicits only with duly licensed resident agents of the insurer~~[;~~.

~~(3) Newsboys and managers of newspaper distribution offices who incidentally take applications of so-called "newspaper accident insurance" and receive premiums in connection therewith;~~

~~(4) Employees or other representatives of a group policyholder engaged in enrolling certificate holders and performing other activities in the administration of the group policy]~~.

(2) Nothing in this subtitle shall be construed to require an insurer to obtain an agent license. As used in this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(3) A license as an agent or consultant shall not be required of the following:

(a) An officer, director, or employee of an insurer or of an agent, provided that the officer, director or employee does not receive any commission or other valuable consideration on policies written or sold to insurer risks residing, located, or to be performed in this state and whose compensation is not varied by the volume of applications taken or received and:

1. The officer, director, or employee's full-time activities are devoted to functions that are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or

2. The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

3. The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting agents where the officer's, director's, or employee's activities are limited to providing technical advice and assistance to licensed agents and do not include the sale, solicitation, or negotiation of insurance;

(b) The individual secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance, or for the purpose of enrolling individuals under plans, issuing certificates under plans, or otherwise assisting in administering plans; or performs administrative services related to a mass marketed property and casualty insurance, where no commission is paid to the individual for the service;

(c) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(d) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of agents who are not individually engaged in the sale, solicitation, or negotiation of insurance;

(e) An individual or business entity whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the individual or business entity does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state;

(f) An individual or business entity who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one (1) state insured under that contract, provided that the individual or business entity is otherwise licensed as an agent to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;

(g) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interest of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell, solicit, or negotiate insurance or receive a commission; or

(h) Employees of an insurer or an agent who responds to requests from existing policy holders on existing policies, provided that those employees are not directly compensated based on the volume of premiums that may result from these services, and provided that those employees do not otherwise sell, solicit, or negotiate insurance.

Section 7. KRS 304.9-105 is amended to read as follows:

An individual applying for an agent license shall make application to the commissioner on the uniform application and *declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the applicant*~~[For the protection of the people of this state, the commissioner shall not issue, continue, or permit to exist, any permanent agent or solicitor license for or on behalf of any natural person unless the person demonstrates to the satisfaction of the commissioner that he is qualified therefor pursuant to the standards contained in this section and any other applicable section of this subtitle]~~:

(1) *Is at least*~~[That the person has attained the age of]~~ eighteen (18) years *of age*~~[or more]~~;

(2) ~~[That the person]~~Has fulfilled the residence requirements as set forth in KRS 304.9-120;

(3) *Has not committed any act that is a ground for denial, suspension, or revocation set forth in Section 34 of this Act;*

(4) ~~[That the person]~~Is trustworthy, reliable, and of good reputation, evidence of which *shall*~~[may]~~ be submitted on behalf of the *applicant*~~[person]~~ in the form of:

(a) A certificate by the insurer or agent by which or whom the *applicant*~~[person]~~ is to be appointed or employed, subject to the issuance of the license, stating that the insurer~~[or agent]~~ has either made, or caused to be made by responsible investigators, an investigation into the trustworthiness, reliability, and good reputation of the *applicant*~~[person]~~ together with a brief synopsis of the findings resulting therefrom; or

(b) Three (3) letters of recommendation attesting to the trustworthiness, reliability, and good reputation of the person written on his *or her* behalf by persons not related to him *or her* by blood or marriage and one (1) of whom shall be a licensed resident insurance agent, which letters shall also state the extent of familiarity, both as to length of time and degree of knowledge, possessed by the writer with regard to both personal and business conduct of the person.

(5)~~[(4)][That the person]~~Is competent to exercise the license and has:

(a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;

(b) *Except for limited lines licenses, completed a forty (40) hour prelicensing classroom course of study for the lines of authority for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section*~~[Successfully completed specific courses of instruction in the field of insurance as the commissioner shall by regulation prescribe for a license when initially issued, which courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for the purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision the instruction was administered. Programs of instruction provided by insurers authorized, or agent associations recognized, by the commissioner may be substituted for the specific courses of instruction prescribed by the commissioner when the programs have been reviewed and approved by the commissioner prior to their use, which approval shall not be unreasonably withheld if the programs of instruction are substantially similar in content and emphasis placed thereon to those prescribed by the commissioner]~~;

(c) *Except for limited line licenses, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied*~~[Successfully passed any written examination required by the commissioner for the license pursuant to KRS 304.9-160 unless exempt pursuant to KRS 304.9-170]~~; and

(d) *Paid the fees set forth in KRS 304.4-010*~~[The requirements contained in this subsection and subsection (3) of this section shall not be applicable to the continuance of any license issued prior to June 17, 1978]~~.

(6)~~[(5)][That the person]~~Is financially responsible to exercise the license and has:

(a) *1.* Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his *or her* capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than ten thousand dollars ($10,000) and fifty thousand dollars ($50,000) in the aggregate for all occurrences within one (1) year, and that the policy shall not be terminated unless at least thirty (30) days' prior written notice will have been given to the commissioner; or

2.~~[(b)]~~ Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write business in this Commonwealth, in the sum of ten thousand dollars ($10,000), which shall be subject to lawful levy of execution by any party to whom the *licensee*~~[licensed person]~~ has been found to be legally liable as the result of erroneous acts or failure to act in his *or her* capacity as an~~[insurance]~~ agent; or

3.~~[(c)]~~ Had filed with the commissioner on his *or her* behalf, by an authorized insurer or group of affiliated insurers for which he *or she* is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of the licensed person as the result of erroneous acts or failure to act in his *or her* capacity as an insurance agent on behalf of the insurer or group of affiliated insurers in the sum of ten thousand dollars ($10,000) for any single occurrence and that the agreement shall not be terminated until the license is surrendered to the commissioner or at least thirty (30) days' prior written notice will have been given to the commissioner, whichever shall first occur; and

(b)[~~(d)~~]Agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed ***in accordance with***[~~pursuant to~~] paragraph (a) of this subsection, or agreement filed ***in accordance with***[~~pursuant to~~] paragraph (c) of this subsection, is to be terminated and has not been replaced by another policy or agreement within the time established by regulations of the commissioner, or if any deposit ***in accordance with***[~~pursuant to~~] paragraph (b) of this subsection be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by regulations of the commissioner, any and all licenses held by the ***licensee***[~~person~~] are revoked and shall be promptly surrendered to the commissioner without demand.

(7)[~~(6)~~][~~That the person,~~]To whom an agent's license has been or is to be issued, is the duly appointed agent of an authorized insurer, subject to issuance of the license.

The commissioner may require additional information or submissions for resident applications and may obtain any documents or information reasonably necessary to verify the information contained in an application.

[~~(7) That the person, to whom a solicitor's license has been or is to be issued, is regularly employed by a presently licensed resident agent, or is to be so employed subject to issuance of the license.~~

~~(8) Subsection (4)(b) of this section shall not apply to any person holding a limited license pursuant to KRS 304.9-230.~~

~~(9) No institution included in the Farm Credit System, as set forth and identified in 12 U.S.C. sec. 2002 (Public Law 92-181, sec. 1.2, Dec. 10, 1971, 85 Stat. 583) or any subsidiary or affiliate thereof doing business in this state, nor any officer or employee of any institution included in the Farm Credit System, or any subsidiary or affiliate thereof, may directly or indirectly be licensed to sell or solicit any type of insurance, except term life, credit life, accident, disability and health, and crop hail insurance in an amount appropriate to insure repayment of the loan.~~]

Section 8. KRS 304.9-107 is amended to read as follows:

The following persons shall be exempt from the licensing qualifications and requirements of KRS 304.9-105***(5)***[~~(4)~~](b) and, if otherwise properly qualified, shall be issued licenses without satisfying KRS 304.9-105***(5)***[~~(4)~~](c):

(1) Persons holding a certified life underwriter degree;[~~ and~~]

(2) Persons holding a certified property and casualty underwriter degree***; and***

(3) Persons holding a certified insurance counselor designation.

Section 9. KRS 304.9-120 is amended to read as follows:

(1) Each applicant for license as ***a resident licensee shall be qualified to designate and shall designate Kentucky as the applicant's home state at the date of application for the license and shall maintain that eligibility throughout the duration of the license***[~~agent, who is an independent contractor agent compensated on a commission basis, and each applicant for license as a solicitor must be a bona fide resident of this state at the date of application for the license and must continue to be a resident of this state while so licensed~~].

(2) In determining the good faith of an applicant's claim ***that Kentucky is the applicant's principal place of***[~~to such~~] residence, the commissioner may give due consideration to the following:

(a) The amount of time actually spent by the applicant within this state during the claimed residence period;

(b) The circumstances of ***the applicant's***[~~such~~] residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home, or other temporary or transient type of dwelling or accommodation;

(c) The circumstances of the applicant, his ***or her*** past history and activities, and the probability that he ***or she*** will continue as a resident of this state indefinitely into the future if the license were to be issued;

(d) All other pertinent factors.

[~~(3) The requirements of subsection (1) of this section shall not apply as to:~~

~~(a) One employed to manage the insurance agency of a deceased licensed resident agent;~~

~~(b) An applicant or agent residing in any part of a city located partly within this state, if the other state in which the city is located in part has established a like exception to any residency requirement;~~

~~(c) Life or health insurance agents;~~

~~(d) Agents who are employees of the insurer or an affiliate of the insurer.~~

~~(4) The commissioner shall license as life insurance agent any person, firm, or corporation who is otherwise qualified therefor under this code, but who is not a resident of this state, if by the laws of the state or province of the residence of such person, firm, or corporation, residents of this state may be licensed in such state or province as nonresident life and general lines insurance agents and the commissioner may negotiate and enter into reciprocal arrangements with the insurance~~

~~supervisory official of any other state or province under which the residence requirements of this subsection will be waived in favor of residents of such other state or province if like privileges in such other state or province are granted to residents of this state.~~

~~(5) If, under the laws of any other state or province, greater restrictions regarding residents and personal qualifications are imposed upon the licensing of residents of this state as agents than those imposed upon the licensing of nonresidents of this state under the laws of this state, then the commissioner may, when he considers such action necessary for the protection of domestic insurers or resident agents, impose such greater restrictions upon the licensing of residents of such state or province.]~~

Section 10. KRS 304.9-130 is amended to read as follows:

(1) A ***business entity acting as an agent is required to obtain an agent license. Application shall be made using the uniform business entity application or other application prescribed by the commissioner. Before approving the application, the commissioner shall find that:***

(a) The business entity has paid the fees set forth in KRS 304.4-010;

(b) Each officer, director, and member of the business entity who is acting as an agent has obtained an agent's license;

(c) The business entity has disclosed to the insurance department the identity of all officers and directors and whether or not they are licensed as agents; and

(d) The business entity has designated a licensed agent responsible for the business entity's compliance with the insurance laws and regulations of this state~~[firm or corporation may be licensed as an agent. If a firm, each general partner and each other individual to act for the firm under the license, and if a corporation each individual to act for the corporation under the license, shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee]~~.

(2) ***The licensee shall promptly notify the commissioner of all changes among its members, directors, officers, and other individuals designated in or registered as to the license***~~[An individual who does not meet the residence requirements as provided in KRS 304.9-120 shall not be so named in or registered as to such a license and shall not have the right to exercise the license powers]~~.

(3) ***Each agent authorized to act for the business entity shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee***~~[A license shall not be issued to a firm or corporation unless it maintains a place of business in this state, and the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles]~~.

(4) The ***commissioner may obtain any documents or information reasonably necessary to verify the information contained in an application***~~[licensee shall promptly notify the commissioner of all changes among its members, directors, officers and other individuals designated in or registered as to the license]~~.

Section 11. KRS 304.9-140 is amended to read as follows:

(1) ***Unless denied a license in accordance with this subtitle, a nonresident individual or business entity shall receive an agent license if:***

(a) The applicant is currently licensed and in good standing in his or her home state;

(b) The applicant has submitted the proper request for license and has paid the fees required by KRS 304.4-010 and administrative regulations;

(c) The applicant has submitted or transmitted to the commissioner the application for a license that the applicant submitted to his or her home state or a completed uniform application or uniform business entity application;

(e) The applicant has complied with his or her home state's continuing education requirements;

(f) The applicant's home state awards nonresident licenses to residents of this state on the same basis; and

(g) The applicant has complied with any other applicable legal requirements~~[Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a life insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement]~~.

(2) ***The commissioner may verify the applicant's license status through the database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries***~~[Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105 except as to the residence requirement]~~.

(3) ***A nonresident licensee who changes his or her home state to a state other than Kentucky shall file a change of address and provide certification from the new home state within thirty (30) days of the change of home state. No fee or license application is required***~~[Nonresidents of this state, other than those referred to in subsection (1) of this section, may be licensed as insurance agents in this state without taking an examination if:~~

~~(a) A written examination is required of applicants for an insurance agent's license in such other state.~~

~~(b) The appropriate official of such other state certifies that the applicant holds a currently valid license as an insurance agent in such other state and either passed such written examination or was the holder of an insurance agent's license prior to the time such written examination was required.~~

~~(c) In such other state, a resident of this state is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state]~~.

(4) Notwithstanding ***any other provisions of this chapter, on or after July 1, 2002, an individual licensed as a surplus lines broker in his or her home state shall receive a nonresident surplus lines broker license by meeting the requirements of subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supersedes any provision of Subtitle 10 of this chapter***~~[the provisions of KRS 304.9-120, a nonresident of this state who is a full-time employee of an insurer or an affiliate of an insurer, and not compensated on a commission basis, may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement, and may act as an agent in Kentucky under said license, provided that such insurer maintains a place of business in this state]~~.

(5) Notwithstanding any other provision of this subtitle, an individual licensed as a limited lines agent in his or her home state shall receive a nonresident limited lines agent license in accordance with subsection (1) of this section, granting the same scope of authority as granted under the license issued by the agent's home state.

Section 12. KRS 304.9-150 is amended to read as follows:

(1) Application for~~[an agent or solicitor license shall be made to the commissioner by an insurer. The application for]~~ a consultant license shall be made by the applicant. Applications under this subsection shall be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

(2) The form of application shall require full answers to any questions as may be reasonably necessary to determine the applicant's identity, residence, personal history, business record, financial responsibility, experience in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) ~~[If for an agent's or consultant's license,]~~The application shall state the kinds of insurance proposed to be transacted~~[, and if an agent's, the application shall be deemed an appointment of the applicant as agent for the kinds of insurance, by an authorized insurer, subject to issuance of the license]~~.

(4) ~~[If for solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed resident general lines agent, subject to issuance of the license.~~

~~(5) If the applicant for an agent's license is a firm or corporation, the application shall show in addition, the names of all members, officers, and directors, and shall designate each individual who is to exercise the license powers; and each individual shall furnish information with respect to himself, as part of the application, as though for an individual license.~~

~~(6) If for license as agent, or solicitor, or consultant,]~~The application shall also show whether the applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any license was ever refused, suspended, revoked, or renewal or continuance denied, whether any insurer, general agent, agent, claims applicant is indebted to it, and if so, the details thereof; whether applicant has ever had an agency contract canceled, and the facts thereof~~[; and, if applicant is a married person, like information with respect to the spouse.~~

~~(7) As part of the application for agent's or solicitor's license, the commissioner shall require the certificate of the insurer or agent, proposed to be represented, relative to applicant's identity, residence, experience, or instruction as to the kinds of insurance to be transacted, trustworthiness, and reputation]~~.

(5)~~[(8)]~~All applications shall be accompanied by the applicable license fee~~[, appointment fee,]~~ and examination fee, in the respective amounts stated in KRS 304.4-010.

(6)~~[(9)]~~No applicant for license under this subtitle shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

Section 13. KRS 304.9-160 is amended to read as follows:

(1) ***An individual applying for any license under this subtitle requiring an examination shall pass a written examination***~~[After completion and filing of application with the commissioner as required by KRS 304.9-150, the commissioner shall subject each applicant for license as agent, or solicitor,]~~ unless ***exempt***~~[exempted therefrom]~~ under KRS 304.9-170***. Examinations required by this section shall be developed and conducted in accordance with administrative regulations promulgated***~~[, to a written examination as to his competence to act as such agent or solicitor, which he must personally take and pass to the satisfaction of the commissioner prior to having his application for a license considered]~~ by the commissioner.

(2) ***The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in KRS 304.4-010***~~[If the applicant is a firm or corporation the examination shall be so taken by each individual who is to be named in or registered as to the license, as provided in KRS 304.9-130]~~.

(3) ***Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner as set forth in KRS 304.5-010***~~[examination of an applicant for an agent's license shall cover all the kinds of insurance which the appointing insurer or insurers are authorized to transact in this state; except as to a limited license provided for under KRS 304.9-230 and except that an applicant to be licensed as to health insurance only or mortgage guaranty insurance only shall not be examined as to other kinds of insurance. The commissioner shall permit applicants appointed by a life insurer authorized in this state to issue kinds of insurance other than life and health insurance and annuities, as provided in KRS 304.3-110, to take examinations covering either the other kinds of insurances, or covering life and health insurance and annuities only, or both. In the case of life insurers authorized to issue variable annuities in this state, the commissioner may require applicants appointed by such insurers to solicit such contracts in this state, in addition to completing examinations qualifying for a life agent's license, to successfully pass a supplemental examination covering the subject of variable annuities in order to solicit, place or procure variable annuity contracts in this state]~~.

(4) ***An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another*** examination~~[of an applicant for a solicitor's license shall cover all kinds of insurance, other than life or health insurance, as to which the appointing agent is licensed.~~

~~(5) Written application for the examination shall be filed with the commissioner by or on behalf of the applicant prior to the date fixed for the examination, as provided in KRS 304.9-190, and shall be accompanied by the fee for such application as specified in KRS 304.4-010]~~.

Section 14. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no~~[such]~~ examination shall be required of:

(1) Any applicant for license covering ***any line of authority***~~[the same kind or kinds of insurance as]~~ to which the applicant was licensed under a similar license in ***Kentucky***~~[this state]~~, other than a temporary license, within the twenty-four (24) months next preceding date of application, unless the previous license was revoked~~[,]~~ ***or*** suspended~~[, or continuation thereof refused]~~ by the commissioner for reasons other than failure to maintain financial responsibility ***or meeting continuing education requirements*** as required by KRS 304.9-105 ***and Section 24 of this Act***.

(2) ***An individual who applies for an agent license in Kentucky who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the applicant is currently licensed in the other state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's database records, maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries, indicate that the agent is or was licensed in good standing for the line of authority requested***~~[In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in the other state as to applicant's license and good conduct in the state]~~.

(3) ***An individual licensed as an agent in another state within the last twelve (12) months who moves to Kentucky shall make application within ninety (90) days of establishing legal residence to become a resident licensee. No prelicensing education or examination shall be required of that applicant to obtain a license for any line of authority previously held in the prior home state except where the commissioner determines otherwise by administrative regulation***~~[Persons representing public carriers who, in the course of their representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property]~~.

(4)~~[Persons soliciting or negotiating credit life, credit health and accident, credit personal property, and credit unemployment insurance contracts.~~

~~(5)]~~ An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same ***line of authority***~~[kind or kinds of insurance]~~, or has been so licensed within twelve (12) months next preceding the date of application for the license, unless the previous license was revoked or suspended or continuation thereof refused by the commissioner for reasons other than failure to maintain financial responsibility as required by KRS ***304.9-330***~~[304.9-105]~~.

(5)~~[(6)]~~Any applicant for license covering the same ***line of authority***~~[kind or kinds of insurance]~~ as to which that applicant shall have held a valid license issued ***in accordance with***~~[pursuant to]~~ this subtitle or other applicable Kentucky law which was surrendered, ***in accordance with***~~[pursuant to]~~ KRS 304.2-080 or other applicable law, in order to accept employment with the Department of Insurance, provided, however, that the applicant shall apply for relicensing within one (1) year of the date of termination of his ***or her*** employment with the Department of Insurance.

~~[(7) Persons soliciting or negotiating mechanical breakdown insurance contracts.]~~

Section 15. KRS 304.9-180 is amended to read as follows:

(1) ***The***~~[Each]~~ examination ***shall test the***~~[for license as agent, consultant, or solicitor shall reasonably test the applicant's competence and his]~~ knowledge ***or relevant skills and abilities of the individual concerning the lines of authority for which application is made,***~~[of the kinds of insurance, policies and transactions to be handled under the license applied for,~~

~~of]~~ the duties and responsibilities of~~[such]~~ a licensee, and~~[of]~~ the pertinent insurance laws ***and administrative regulations*** of this state.

(2) The commissioner shall make available to applicants for license, printed information as to the general scope of, and principal subjects to be covered by, the examination for a particular license, together with information as to published books and other reference sources which may be studied by the applicant to prepare for the examination; but the commissioner shall not furnish lists of examination questions and examination questions shall not be selected from lists~~[thereof]~~ known to the commissioner to have been furnished applicants.

Section 16. KRS 304.9-190 is amended to read as follows:

(1) The commissioner shall provide a reasonable opportunity to all applicants to take the ***examinations***~~[examination]~~ required by ***this subtitle***~~[KRS 304.9-160]~~. Examinations shall be held at least monthly at places in this state designated by the commissioner reasonably accessible to applicants, and at least weekly at Frankfort.

(2)~~[All the kinds of insurance which the applicant proposes to transact under the license applied for shall be included in the same examination.~~

~~(3)]~~ The commissioner shall give, conduct and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

(3)~~[(4)]~~The commissioner may require a reasonable waiting period before reexamination of an applicant who has failed to pass a previous examination covering the same ***line***~~[kind or kinds]~~ of ***authority***~~[insurance]~~.

Section 17. KRS 304.9-200 is amended to read as follows:

(1) ***An agent license shall remain in effect unless terminated, canceled, expired, revoked, or suspended as long as the fees set forth in KRS 304.4-010 and all administrative regulations promulgated thereunder are paid and any applicable continuing education requirements for individual agents are met by the due date.***

(2) An individual agent who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty may be imposed as provided in KRS 304.99-020.

(3) A licensed agent who is unable to comply with license renewal procedures due to military service, a long-term medical disability, or some other extenuating circumstance may request a waiver of those procedures. The agent may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(4) The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, and any other information the commissioner deems necessary.

(5) Licensees shall inform the commissioner in writing in a format acceptable to the commissioner of a change of address or change of name within thirty (30) days of the change.

(6) After completion of application for a license, and the taking and passing of any examination required under this subtitle, the commissioner shall promptly consider the same. If the commissioner finds that the applicant has fully met the requirements ***for licensure***~~[therefor]~~, the commissioner shall promptly issue the license to the applicant; otherwise, the commissioner shall refuse to issue the license and promptly notify the applicant and the appointing insurer or agent of ***the***~~[such]~~ refusal, stating the grounds thereof.

(7)~~[(2)]~~If a license is refused, the commissioner shall promptly refund the appointment fee tendered with the license application. All other fees for application for agent, consultant,~~[solicitor,]~~ or adjuster licenses shall be deemed earned when paid and shall not be refundable.

Section 18. KRS 304.9-210 is amended to read as follows:

(1)~~[The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kind or kinds of insurance covered by the license, if applicable, and such other conditions as the commissioner deems proper for inclusion in the license certificate. No license shall be issued in a trade name unless the name has been duly registered or filed as required by law.~~

~~(2)]~~ The license of an agent shall not specify the name of any particular insurer by which the licensee is appointed as agent~~[, except as provided by subsection (5) of this section, as to limited licenses,]~~ and the licensee may~~[, subject to KRS 304.9-220 as to life agents,]~~ represent as ***an***~~[such]~~ agent under the one ***(1)*** license as many insurers as may appoint ***the agent***~~[him therefor]~~ in accordance with this subtitle.

~~[(3) The license of a solicitor shall show the name and address of the employer agent.]~~

(2)~~[(4)]~~The license of a consultant shall show whether the license is for a "general lines consultant" or a "life consultant."

~~[(5) Each limited license issued pursuant to KRS 304.9-230 shall show the name of the insurer so represented, and a separate license shall be required as to each such insurer.]~~

Section 19. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue ***in accordance with Section 4 of this Act, an agent's license with the line of authority***~~[to an~~

~~applicant qualified therefor, including, but not]~~ limited[~~ to, financial responsibility pursuant to KRS 304.9-105(5), under this code limited agent's licenses~~] as follows:

(a) ***To***[~~Covering~~] motor vehicle physical damage insurance only;

(b) To[~~ persons representing~~] common ***carrier insurance, incidental to the transportation of persons or to the storage or transportation of property only, and solicited or sold by persons representing common carriers in the course of that representation***[~~carriers, as provided in KRS 304.9-170~~];

(c) ***To limited line credit insurance***[~~Covering~~] only[~~ insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured~~];

(d)[~~ Covering only credit life, credit health, credit personal property, and credit unemployment insurance;~~

~~(e) Covering agents writing mortgage guaranty insurance only;~~

~~(f) Covering agents:~~

~~1. Writing industrial life insurance only; or~~

~~2. Licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000) on the debit plan, if the agent actually collects and services a debit for the insurer;~~

~~(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith;~~

~~(h)~~] ***To***[~~Covering agents writing~~] crop-hail insurance only;[~~ and~~]

(e)[~~(i)~~] ***To***[~~Covering agents writing~~] mechanical breakdown insurance only***; and***

(f) To other limited line insurance only, as specified by the commissioner through the promulgation of administrative regulations.

(2) The ***commissioner shall promulgate administrative regulations to establish the requirements for prelicensing courses of instruction and examination***[~~fee~~] for ***each limited lines license***[~~licenses is as specified in KRS 304.4-010~~].

Section 20. KRS 304.9-260 is amended to read as follows:

(1) Each[~~ solicitor,~~] consultant, adjuster, and surplus lines broker license issued under this code shall continue in force until expired, suspended, revoked, or otherwise terminated, but subject to payment to the commissioner at his ***or her*** office in Frankfort on or before March 31 of the applicable continuation fee for any appointment, or license in the case of a limited license, not terminated on or prior to December 31 of the preceding calendar year as stated in KRS 304.4-010, accompanied by written request for continuation. Request for continuation shall be made as follows:

(a) As to adjuster and surplus lines broker licenses, request made and signed by the licensee.

(b)[~~ As to solicitor licenses, request made and signed by the employer as to whom licensed.~~

~~(c)~~] As to limited licenses issued under KRS 304.9-230, request made and signed by the insurer so represented.

(2) Biennially, before January 31, the department shall distribute to each respective licensee, employer, and insurer a listing of the names and addresses of that person's licensees referred to in subsection (1) whose appointments were in effect during the preceding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall continue in effect as to the kinds of insurance or classifications[~~ thereof~~] for which the respective licensees are currently appointed and subject to payment of the fees specified under KRS 304.4-010. On or before March 31, each licensee, employer, or insurer shall submit the continuation of appointment fee, as specified in KRS 304.4-010, for each appointment or license not terminated on or prior to December 31 of the preceding calendar year. Any license referred to in subsection (1) of this section as to which request for continuation and fee are not so received by the commissioner shall be deemed to have expired at midnight on March 31; except that any request and fees received by the commissioner after March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his ***or her*** discretion, if accompanied by a penalty as provided in Subtitle 99 of this chapter.

(3) The license of an agent shall continue in force as long as there is in effect as to the licensee, as shown by the commissioner's records, an appointment or appointments as agent of authorized insurers covering collectively all of the ***lines of authority***[~~kinds of insurance or classifications thereof~~] included in the agent's license. Upon termination of all of the licensee's[~~ agency~~] appointments as to a particular ***line of authority***[~~kind of insurance or classification thereof~~] and failure to replace an appointment within sixty (60) days thereafter, the license shall[~~ thereupon~~] expire and terminate as to the ***line of authority***[~~kind or classification of insurance~~] and the licensee shall promptly deliver his ***or her*** license to the commissioner for reissuance, without fee or charge, as to the ***line of authority***[~~kinds of insurance or classifications thereof~~], if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's[~~ agency~~] appointments ***and failure to obtain a new appointment within sixty (60) days,*** the license shall[~~ forthwith~~] terminate ***and be surrendered to the commissioner***.

(4) As a condition to or in connection with the continuation of any agent ***or***[~~,~~] consultant[~~, or solicitor~~] license, the

commissioner may require the licensee to file with him ***or her*** information relative to use made of the license during the next preceding calendar year and especially as to whether the license has been used principally for the writing of controlled business, as defined in KRS 304.9-100.

(5) As a condition to or in connection with the continuation of any agent[~~ or solicitor~~] license, the commissioner shall require continuous demonstration of financial responsibility as required by KRS 304.9-105***(6)***[~~(5)~~], and any license shall terminate and be surrendered to the commissioner, as provided[~~ for~~] therein, if and when ***the***[~~such~~] demonstration becomes impaired whether or not valid appointments under the license are then existent.

(6) Except as to the provisions of subsection (5) hereof, this section does not apply to temporary licenses issued under KRS 304.9-300.

Section 21. KRS 304.9-270 is amended to read as follows:

(1) Each insurer appointing an agent in this state shall ***obtain approval of the appointment from the commissioner by filing***[~~file~~] with the commissioner the ***notice of*** appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and submit the license fee with the license application and the appointment fee with every appointment[~~ thereafter~~], or license fee in the case of limited licenses, as specified in KRS 304.4-010.

(2) ***No agent shall claim to be an agent or representative of, or in any way imply a contractual relationship with, a particular insurer, or place applications for insurance with an insurer unless the agent becomes an appointed agent of the insurer and the agent's appointment has been approved by the commissioner.***

(3) An agent may act as a representative of and place insurance with an insurer without first obtaining approval of the appointment by the commissioner for a period of thirty (30) days from the date the first insurance application is executed by the agent subject to the following criteria:

(a) The agent has filed with the commissioner, and kept in force, evidence of financial responsibility in the sum of not less than one million dollars ($1,000,000) per occurrence, and the sum of two million dollars ($2,000,000) in the aggregate, for all occurrences within one (1) year, either in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. Such a policy, bond, deposit, or combination shall not be terminated unless at least thirty (30) days prior written notice is given to the licensee and the commissioner.

(b) If the agent does not receive from the insurer acknowledgment that the agent's appointment has been approved by the commissioner within thirty (30) days from the date the first insurance application is executed, the agent shall immediately discontinue acting as an agent on behalf of the insurer until acknowledgment is received.

(4) (a) The insurer shall, no later than forty-five (45) days from the date the agency contract is executed or the first insurance application is submitted by an agent, whichever is earlier, file with the commissioner a written notice of appointment on a form prescribed by the commissioner.

(b) If there is no executed agency contract, the insurer shall also mail to the agent, within the same forty-five (45) day period specified in paragraph (a) of this subsection, a copy of the notice of appointment form filed with the commissioner.

(5) Within fifteen (15) days of receipt of the notice of appointment, the commissioner shall determine and notify the insurer whether the agent is eligible for appointment. If the agent's license is in good standing and no other grounds exist to deny the appointment, the commissioner shall approve the appointment.

(6) Subject to continuation by the insurer as provided in subsection ***(4)***[~~(3)~~] of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.

(7)[~~(3)~~]Biennially, before January 31, the department shall distribute to each insurer a listing of the names and addresses of that insurer's agents whose appointment, or licenses in the case of limited licenses, were in effect during the proceeding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently appointed, and subject to the fees specified under KRS 304.4-010. On or before March 31, each insurer shall submit the continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010, for each appointment not terminated on or prior to December 31 of the preceding calendar year. Any appointment or license not expressly terminated shall continue, unless otherwise terminated, canceled, suspended, or revoked by the department of insurance.

Section 22. KRS 304.9-280 is amended to read as follows:

(1) Subject to the agent's contract rights, if any, an insurer may terminate an[~~ agency~~] appointment at any time. However, if any[~~ agency~~] appointment is not terminated on or prior to December 31, then on January 1 the fees designated shall be due for submission as provided in KRS 304.9-270.[~~ The insurer shall promptly give written notice of such termination and the~~]

~~effective date thereof to the commissioner and to the agent where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given notice to the agent where reasonably possible.]~~

(2) *An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a licensee shall notify the commissioner within thirty (30) days following the effective date of the termination, using a form prescribed by the commissioner, if the reason for termination is one (1) of the reasons set forth in Section 34 of this Act or if the insurer has knowledge the licensee was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 34 of this Act. Upon the written request of the commissioner the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the licensee.*

(3) An insurer or authorized representative of the insurer that terminates the appointment of a licensee for any reason not set forth in subsection (2) of this section, shall notify the commissioner within thirty (30) days following the effective date of the termination, using a form prescribed by the commissioner. Upon written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

(4) The insurer or the authorized representative of the insurer shall promptly notify the commissioner in a form acceptable to the commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the commissioner in accordance with subsection (2) of this section had the insurer known of its existence.

(5) (a) Within fifteen (15) days after making the notification required by subsection (3) of this section the insurer shall mail a copy of the form to the licensee at his or her last known address by first-class mail. Within fifteen (15) days after making the notification required by subsection (2) of this section, the insurer shall provide a copy of the form to the licensee at his or her last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(b) Within thirty (30) days after the licensee has received a copy of the form, the licensee may file written comments concerning the substance of the notification with the commissioner. The licensee shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the licensee as permitted under subsection (7)(c) of this section.

(6) (a) 1. In the absence of actual malice, an insurer, the authorized representative of the insurer, a licensee, the commissioner, or their respective representatives, or employees, or an organization of which the commissioner is a member and that compiles the information and makes it available to other insurance commissioners, or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective representatives or employees, as a result of:

a. Any statement or information required by or provided in accordance with this section;

b. Any information relating to any statement that may be requested in writing from an insurer or licensee by the commissioner; or

c. A statement by a terminating insurer or licensee to an insurer or licensee that is limited solely and exclusively to whether a termination for cause under subsection (2) of this section was reported to the commissioner.

2. The propriety of any termination for cause under subsection (2) of this section shall be certified in writing by an officer or authorized representative of the insurer or licensee terminating the relationship.

(b) In any action brought against an individual, business entity, or organization that may have immunity under subsection (6)(a) of this section for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that subsection (6)(a) of this section does not apply because the individual, business entity, or organization making the statement, or providing the information did so with actual malice.

(c) Subsection (6)(a) or (6)(b) of this section shall not abrogate or modify any existing statutory or common law privileges or immunities.

(7) (a) 1. Any document, material, or other information in the control or possession of the department that is furnished by an insurer, licensee, or an employee, or representative acting on behalf of the insurer or licensee, or obtained by the commissioner in an investigation in accordance with this section:

a. Shall be confidential by law and privileged;

b. Shall not be subject to subpoena; or

c. Shall not be subject to discovery or admissible in evidence in any private civil action.

Notwithstanding subdivisions a., b., and c. of this subparagraph, any document, material, or other information that is furnished by an insurer, licensee, or an employee, or representative acting on behalf

of the insurer or licensee, or obtained by the commissioner in an investigation in accordance with this section, that is used in a formal administrative proceeding or enforcement action in accordance with KRS Chapter 13B shall be subject to the Kentucky Open Records Act.

2. However, the commissioner is authorized to use the documents, materials, or other information referred to in subsection (7)(a)1. of this section in the furtherance of any regulatory or legal action brought to carry out the commissioner's duties.

(b) Neither the commissioner nor any individual who received documents, materials, or other information while acting under the authority of the commissioner, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph (a) of this subsection.

(c) In order to assist in the performance of the commissioner's duties, the commissioner:

1. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph (a) of this subsection, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates, or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;

2. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information; and

3. May enter into agreements governing sharing and use of information consistent with this subsection.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner or of sharing as authorized in this subsection.

(e) The commissioner shall release only final, adjudicated actions including for cause terminations that are open to public inspection in accordance with the Kentucky Open Records Act , KRS 61.870 to 61.884, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

(f) As part of the nonresident license certification process, the department shall release only final adjudicated actions on agents licensed according to this subtitle~~[Accompanying the notice of termination given the commissioner, the insurer shall file with him a statement of all the facts constituting the cause, if any, for termination. Any information, document, record, or statement so disclosed or furnished to the commissioner shall be deemed an absolutely privileged communication and shall not be admissible as evidence in any action or proceeding unless consented to in writing by the insurer.~~

~~(3) An agent terminating the employment as solicitor of a licensed solicitor shall give like notice of the termination to the commissioner, and like information as to the reasons for the termination, with like status as privileged communication unless the privilege is waived in writing by the agent~~].

Section 23. KRS 304.9-290 is amended to read as follows:

Following termination of an~~[agency]~~ appointment~~[of a general lines agent,]~~ and subject to the terms of any agreement between the agent and the insurer, the agent may continue to service, and receive from the insurer commissions or other compensation relative to, business written by him ***or her*** for the insurer during the existence of the appointment, so long as the agent continues to be licensed as to the kinds of insurance involved.

Section 24. KRS 304.9-295 is amended to read as follows:

(1) This section shall apply to ***individuals***~~[resident persons]~~ licensed as agents~~[or solicitors for the following kinds of insurance: life, health, property, casualty, or surety]~~.

(2) This section shall not apply to:

(a)~~[Persons holding licenses for which no examination is required by KRS 304.9-170 except that persons exempted from examination by KRS 304.9-170(1) and (2) shall be subject to this section;~~

~~(b)]~~ ***Licensees***~~[Persons]~~ holding limited ***lines of authority***~~[or restricted]~~ licenses, as exempted by the commissioner ***in accordance with Section 19 of this Act***;

(b)~~[(c)]~~***Licensees***~~[Persons]~~ not licensed for one (1) full year prior to the end of a continuing education biennium as described in subsection (3) of this section;

(c)~~[(d)]~~***Licensees***~~[Persons]~~ holding nonresident licenses who have met the continuing education requirements of their

home state[~~ of domicile~~] and whose ***home*** state ***gives credit to Kentucky resident agents on the same basis***[~~of domicile has a current continuing education reciprocal agreement with the commissioner~~]; or

(d)[~~(c)~~]***Licensees***[~~Persons~~] maintaining their licenses for the sole purpose of receiving renewals or deferred commissions and providing the department with a supporting affidavit.

(3) The licensees specified in subsection (1) of this section and not exempt under subsection (2) of this section who hold a license, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) ***shall***[~~must~~] be classroom hours, during each continuing education biennium. A continuing education biennium shall begin on July 1 and end on June 30 two (2) years later.

(4) Only continuing education courses approved by the commissioner ***shall***[~~may~~] be used to satisfy the continuing education requirement of subsection (3) of this section.

(a) The continuing education courses which meet the commissioner's standards for continuing education requirements are:

1. Any part of the Life Underwriter Training Council life course curriculum;
2. Any part of the Life Underwriter Training Council health course curriculum;
3. Any part of the American College Chartered Life Underwriter diploma curriculum;
4. Any part of the American Institute for Property and Liability Underwriters' chartered property and casualty underwriter profession designation program;
5. Any part of the Insurance Institute of America's programs;
6. Any part of the certified insurance counselor program;
7. Any insurance related course taught at an accredited college or university, if ***the***[~~such~~] course is approved by the commissioner;
8. Any course of instruction or seminar developed or sponsored by any authorized insurer, recognized agent association, recognized insurance trade association, or any independent program of instruction, if approved by the commissioner;
9. Any correspondence course approved by the commissioner***; and***
10. Any course in accordance with provisions of reciprocal agreements the commissioner enters with other states.

(b) The commissioner shall prescribe the number of hours of continuing education credit for each continuing education course approved ***in accordance with***[~~pursuant to~~] this subsection. ***Continuing education courses submitted in accordance with a reciprocal agreement shall be approved according to the provisions of the reciprocal agreement.***

(c) If a continuing education course requires successful completion of a written examination, no continuing education credit shall be given to ***licensees***[~~persons~~] who do not successfully complete ***the***[~~such~~] written examination.

(d) The fee for filing continuing education courses for approval by the commissioner shall be as specified in Subtitle 4 of KRS Chapter 304.

(e) For continuing education courses of reciprocal states, continuing education providers shall be approved in accordance with the provisions of the reciprocal agreements.

(5) ***An individual***[~~A person~~] teaching any approved continuing education course shall qualify for the same number of hours of continuing education credit as would be granted to a ***licensee***[~~person~~] taking and satisfactorily completing ***the***[~~such~~] course.

(6) Excess credit hours accumulated during any continuing education biennium may be carried forward. The commissioner may, by regulation, limit the number of hours carried forward.

(7) For good cause shown, the commissioner may grant an extension of time during which the continuing education requirement of subsection (3) of this section may be completed, but ***the***[~~such~~] extension of time shall not exceed two (2) years. What constitutes good cause for ***the***[~~such~~] extension of time rests within the discretion of the commissioner.

(8) Every ***licensee***[~~person~~] subject to this section shall furnish to the commissioner written certification as to the continuing education courses satisfactorily completed by ***the licensee***[~~such person~~]. ***The***[~~Such~~] certification shall be signed by or on behalf of the organization sponsoring the continuing education course. ***The***[~~Such~~] certification shall be on a form prescribed by the commissioner.

(9) The license of any ***individual***[~~person~~] failing to comply with the continuing education requirement of subsection (3) of this section and who has not been granted an extension of time to comply ***in accordance with***[~~pursuant to~~] subsection (7) of this section shall ***terminate and shall*** be[~~ canceled and~~] promptly surrendered to the commissioner without demand.

(10) The license of any ***individual***[~~person~~] subject to the continuing education requirement shall be suspended or revoked, a civil penalty imposed[~~ in lieu thereof~~], or both, ***in accordance with***[~~pursuant to~~] KRS 304.9-440 if ***the individual***[~~such~~

~~person]~~ submits to the commissioner a false or fraudulent certificate of compliance with the continuing education requirement.

Section 25. KRS 304.9-300 is amended to read as follows:

(1) The commissioner may issue a temporary license ***for a period not to exceed one hundred eighty (180) days without requiring an examination or prelicensing course of study if the commissioner deems that a temporary license is necessary for the servicing of an insurance business***~~[as agent to or with respect to an individual who demonstrates that he is qualified therefor only as to age, residence, trustworthiness, general education and financial responsibility without requiring such individual to successfully complete specific courses of instruction or take an examination,]~~ in the following cases:

(a) To the surviving spouse or ***court-appointed personal representative***~~[next of kin or to the administrator or executor, or the employee of such administrator or executor,]~~ of a licensed agent ***who dies or becomes mentally or physically disabled, to allow adequate time for the:***

1. Sale of the insurance business owned by the agent;

2. Recovery or return of the agent to the business; or

3. Training and licensing of new personnel to operate the agent's business~~[becoming deceased]~~.

(b)~~[To the spouse, next of kin, employee or legal guardian of a licensed agent disabled by sickness, injury, or insanity.~~

~~(c)]~~ To a member or employee of a ***business entity***~~[firm, or officer or employee of a corporation,]~~ licensed as ***an*** agent, upon the death or disability of ***the sole***~~[an]~~ individual designated in~~[or registered under]~~ the ***business entity application or the*** license~~[to exercise the powers thereof]~~.

(c)~~[(d)]~~To the designee of a licensed agent entering upon active service in the armed forces of the United States.

(d)~~[(e) To any agent appointed by an insurer issuing policies on the debit plan, if such agent actually collects and services a debit. The insurer and agent may assume that such license will be issued, effective as of the date of application, and the agent may continue on such debit until notified to the contrary by the commissioner.~~

~~(f) To a full time ordinary life insurance agent appointed by the insurer under a training program filed with and approved by the commissioner, which program shall not be approved unless it includes the equivalent of forty (40) hours of classroom instruction in specific courses in the field of insurance as prescribed by the commissioner for the issuance of a permanent license. No such training program or temporary licensing privilege shall be granted or continued for such ordinary life agents for any insurer obtaining more than ten (10) such temporary licenses within any calendar year and which fails to qualify at least sixty-five percent (65%) of its temporary licensees for a permanent license.~~

~~(g)]~~ In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of ***this***~~[such]~~ license.

(2) ***In addition to the restrictions on temporary licenses set forth in Section 26 of this Act, the commissioner may, by order, limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed agent or insurer and who assumes responsibility for all acts of the temporary licensee, and may impose other similar requirements designed to protect insureds and the public. The commissioner may, by order, revoke a temporary license if the interests of insureds or the public are endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business.***

(3) Application for a temporary license shall be filed with the commissioner in ***the***~~[such]~~ form and containing ***the***~~[such]~~ information as the commissioner may reasonably require, and be accompanied by the application fee as specified in KRS 304.4-010.

~~[(3) The temporary license shall be for a period of not over ninety (90) days, subject to extension by the commissioner in his discretion for one (1) additional period of not over ninety (90) days; except, that license issued as to an executor or administrator under paragraph (a) of subsection (1) of this section may be continued without payment of additional fee until the executor or administrator has disposed of the insurance business, but for not to exceed a period of eighteen (18) months. Temporary license issued to the spouse or next of kin under such paragraph (a) of subsection (1) of this section shall not be extended for an additional term after appointment and qualification of such an administrator or executor.~~

~~(4) The fee paid for the temporary license may be applied upon the fee required for any permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance.]~~

Section 26. KRS 304.9-310 is amended to read as follows:

(1)~~[The commissioner shall not issue more than one (1) temporary license to or with respect to the same individual to be so licensed, within any twelve-month period.~~

~~(2)]~~ The temporary license may cover only the same kinds of insurance for which the agent thereby being replaced was licensed.

(2)[~~(3)~~]The temporary licensee may represent under the license all insurers last represented by the replaced agent, and without the necessity of new appointments of the licensee; but the licensee shall not be appointed as to any additional insurer of additional kind of insurance under[~~ such~~] a temporary license. This provision shall not be deemed to prohibit termination of its appointment by any insurer.

(3)[~~(4)~~]A temporary license shall have the same license powers and duties as under a permanent license but shall not be obtained for the sole production of controlled business as defined in KRS 304.9-100, and no sale of insurance of any kind shall be made upon the licensee's own life or the lives of any relative by blood or marriage.

Section 27. KRS 304.9-370 is amended to read as follows:

(1) Application for and acceptance of a license as a consultant, agent, ***or*** adjuster[~~ or solicitor~~] by a nonresident of Kentucky shall thereby be deemed to constitute irrevocable appointment of the Secretary of State as the attorney of the licensee for the acceptance of service of process issued in this state in any action or proceeding against the licensee arising out of ***the***[~~such~~] licensing or out of transactions under the license.

(2) Service of process against any nonresident licensee may be made in any action by service upon the Secretary of State as provided in KRS 304.3-230.

Section 28. KRS 304.09-390 is amended to read as follows:

(1) Every agent referred to in subsection (1) of KRS 304.9-120 shall have and maintain in this state a place of business accessible to the public, and wherein the licensee principally conducts transactions under his ***or her*** license. The address of ***the***[~~such~~] place shall appear upon the license. Nothing in this section shall prohibit maintenance of such a place in the licensee's residence in this state.

(2) The licenses of the licensee[~~, and those of solicitors employed by him,~~] shall be conspicuously displayed in ***the***[~~such~~] place of business in a part[~~ thereof~~] customarily open to the public.

(3) The agent shall keep at his place of business complete records of transactions under his license[~~ and those of his solicitors~~]. ***The***[~~Such~~] record shall show, as to each insurance policy or contract placed[~~ or countersigned~~] by or through the licensee, the names of the insurer and insured, the number and expiration date of, and premium payable as to, the policy or contract, and ***any***[~~such~~] other information as the commissioner may reasonably require. The record shall be kept available for inspection by the commissioner, for a period of at least five (5) years after completion of the respective transactions.

[~~(4) This section shall not apply as to life and health insurance.~~]

Section 29. KRS 304.9-400 is amended to read as follows:

That portion of all premiums or moneys which an agent[~~ or solicitor~~] collects from an insured and which is to be paid to an insurer, its agents, its managing general agents or his ***or her*** principal because of the assumption of liability through the issuance of policies or contracts for insurance, shall be held by the agent[~~ or solicitor~~] in a fiduciary capacity and shall not be misappropriated or converted to his ***or her*** own use or illegally withheld by the agent[~~ or solicitor~~].

Section 30. KRS 304.9-421 is amended to read as follows:

No agent,[~~ solicitor,~~] consultant, adjuster, or surplus lines broker shall directly or indirectly share his ***or her*** commission or other compensation received or to be received on account of a transaction under his ***or her*** license with any ***individual or business entity***[~~person~~] not also licensed as agent,[~~ solicitor,~~] consultant, adjuster, or surplus lines broker under this subtitle as to the kinds of insurance involved in the transaction. This provision shall not affect personal use of ***the***[~~such~~] commissions or compensation, payment of the regular salaries due employees of the agent, consultant, adjuster, or surplus lines broker, or distribution in the regular course of business of compensation and profits among members or stockholders of licensee ***business entities***[~~firms or corporations~~].

Section 31. KRS 304.9-425 is amended to read as follows:

No insurer, ***financial institution,***[~~insurance~~] agent, surplus lines broker,[~~ solicitor,~~] adjuster, or consultant shall pay directly or indirectly, any commission, brokerage, or other valuable consideration to any ***individual or business entity***[~~person~~] for services as an[~~ insurance~~] agent, surplus lines broker,[~~ solicitor,~~] adjuster, or consultant within this state, unless ***the individual or business entity***[~~such person~~] held at the time ***the***[~~such~~] services were performed a valid license for that line of insurance as required by the laws of this state for ***the***[~~such~~] services; nor shall any ***individual or business entity***[~~person~~], other than ***an individual or business entity***[~~a person~~] duly licensed by this state as an[~~ insurance~~] agent, surplus lines broker,[~~ solicitor,~~] adjuster, or consultant at the time ***the***[~~such~~] services were performed, accept any such commission, brokerage, or other valuable consideration. Provided, that this section shall not prevent payment or receipt of renewal or other deferred commissions to or by any ***individual or business entity***[~~person~~] entitled[~~ thereto~~] under this section.

Section 32. KRS 304.9-430 is amended to read as follows:

(1) No ***individual or business entity***[~~person~~] shall in this state act as or hold himself ***or herself*** out to be an adjuster unless then licensed by the Kentucky Department of Insurance as an adjuster. Application for license shall be made to the commissioner according to forms as prescribed and furnished by him ***or her***. The commissioner shall issue the license as to ***applicants***[~~persons~~] qualified[~~ therefor~~] upon payment of the license application fee stated in KRS 304.4-010[~~ except~~

~~that salaried employees of domestic insurers who are required to be licensed as adjusters shall not be required to pay the license fee~~].

(2) To be licensed as an adjuster the applicant ***shall***[~~must be qualified therefor as follows~~]:

(a) [~~Must, ~~] ***Be***[~~if~~] an individual[~~ be~~] twenty-one (21) years or more of age.

(b) [~~Must ~~]Be a resident of Kentucky, or resident of another state which will permit residents of Kentucky to act as adjusters in ***the***[~~such~~] other state.

(c) [~~Must ~~]Be ***an***[~~a full-time salaried~~] employee of an insurer, a full time salaried employee of a licensed adjuster or a graduate of a recognized law school, or[~~ must~~] have[~~ had~~] experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make him ***or her*** reasonably competent to fulfill the responsibilities of an adjuster.

(d) [~~Must ~~]Be trustworthy and of good reputation.

(e) [~~Must ~~]Have and maintain an office accessible to the public, and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of ***the***[~~such~~] office in the office of an insurer, of the employer, or in the home of the licensee.

(f) [~~Must ~~]Have successfully passed a written examination prescribed by the commissioner, except if the applicant has successfully passed a written examination in a state which permits residents of Kentucky to act as adjusters in ***the***[~~such~~] other state.

(3) A ***business entity***[~~firm or corporation~~], whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers is named in the license or registered with the commissioner under the license, and is qualified as for an individual license as adjuster. An additional full license fee shall be paid as to each individual in excess of one (1), so named in the license or so registered to exercise its powers.

(4) Except, that no[~~ such~~] adjuster's license or qualifications shall be required as to any adjuster who is sent into this state on behalf of an insurer for the purpose of investigating or making adjustment of a particular loss under an insurance policy, or for the adjustment of a series of losses resulting from a catastrophe common to all[~~ such~~] losses.

Section 33. KRS 304.9-432 is amended to read as follows:

(1) In the event that an applicant for an adjuster's license meets the qualification requirements of KRS 304.9-430 except that he ***or she*** has not had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make him ***or her*** reasonably confident to fulfill the responsibilities as an adjuster, he ***or she*** shall not be required to take and successfully complete the prescribed written examination and may be issued a temporary license as an apprentice adjuster for a period not to exceed one ***hundred eighty (180) days***[~~(1) year~~].

(2) [~~Such ~~]A temporary license as an apprentice adjuster shall be subject to the following terms and conditions:

(a) ***An individual***[~~A person~~] holding a temporary license as apprentice adjuster shall have all of the privileges and obligations of an adjuster licensed under the insurance code;

(b) ***An individual***[~~A person~~] holding a temporary license as an apprentice adjuster shall at all times be a full-time salaried employee of an insurer or an adjuster and subject to training, direction, and control by a licensed adjuster acting in the same capacity as that ***for*** which the applicant applied[~~ for~~];

(c) A temporary license as apprentice adjuster shall be subject to suspension, revocation, or conditions ***in accordance with***[~~pursuant to~~] KRS 304.9-440; and

(d) ***An individual***[~~A person~~] may hold only one (1) temporary license as an apprentice adjuster.

Section 34. KRS 304.9-440 is amended to read as follows:

(1) The commissioner may ***place on probation,*** suspend***,*** or may impose conditions upon the continuance of a license for not more than twelve (12) months,[~~ or may~~] revoke***,*** or refuse to ***issue or renew***[~~continue~~] any license issued under this subtitle or any surplus lines broker license***, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for***[~~ if, after notice to the licensee and to the insurer represented (as to an agent) or to the employer (as to a solicitor) and a hearing, the commissioner finds that as to the licensee~~] any one (1) or more of the following causes[~~ exist~~]:

(a) ***Providing incorrect, misleading, incomplete, or materially untrue information in the license application***[~~Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner~~].

(b) ***Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner***[~~Willful violation of or noncompliance with any applicable provision of this code, or willful violation of any lawful rule, regulation, or order of the commissioner~~].

(c) Obtaining or attempting to obtain ***a***[~~any such~~] license through misrepresentation or fraud.

(d) ***Improperly***[~~Misappropriation or conversion to his own use, or illegal~~] withholding, ***misappropriating, or converting any***[~~of~~] moneys ***or properties received in the course***[~~belonging to policyholders, insurers,~~]

~~beneficiaries, or others and received in the conduct]~~ of ***doing insurance*** business~~[under the license]~~.

(e) ***Intentionally misrepresenting***~~[Willful material misrepresentation of]~~ the terms of ***an***~~[any]~~ actual or proposed insurance contract ***or application for insurance***.

(f) ***Having been convicted of any***~~[Conviction, by final judgment, of a misdemeanor for which restitution is ordered in excess of three hundred dollars ($300), or a]~~ felony~~[involving dishonesty, breach of trust, or moral turpitude]~~.

(g) ***Having admitted or been found to have committed any unfair insurance trade practice or insurance fraud***~~[In the conduct of his affairs under the license the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public]~~.

(h) ***Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere***~~[Surrendering or otherwise terminating any other license issued by this state or any other jurisdiction under threat of disciplinary action, denial or refusal of the issuance of or renewal of any other license issued by this state or any other jurisdiction, or revocation or suspension of any other license held by the licensee issued by this state or any other jurisdiction]~~.

(i) Having any insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(j) Surrendering or otherwise terminating any other license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;

(k) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(l) Cheating, including improperly using notes or any other reference material to complete an examination for an insurance license;

(m) Knowingly accepting insurance business from an individual who is not licensed, but who is required to be licensed under this subtitle;

(n) Failing to comply with an administrative or court order imposing a child support obligation;

(o) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;

(p) Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars ($300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude; or

(q) Any other cause for which issuance of the license could have been refused, had it then existed and been known to the commissioner.

(2) The license of a ***business entity***~~[firm or corporation]~~ may be suspended, revoked, or refused ~~[:~~

~~(a)~~ ~~]~~for any ***cause relating***~~[of such causes as relate]~~ to an individual designated in or registered ***under***~~[as to]~~ the license ~~[to exercise its powers; or~~

~~(b)~~ ~~]~~if ***the commissioner finds that*** an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on behalf of the ***partnership***~~[firm]~~ or corporation and ***the***~~[such]~~ violation was not reported to the Department of Insurance nor corrective action taken~~[thereon]~~. ***The applicant or licensee may make written demand upon the commissioner in accordance with KRS 304.2-310 for a hearing before the commissioner to determine the reasonableness of the commissioner's action.***

(3) The commissioner shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.

Section 35. KRS 304.9-450 is amended to read as follows:

(1) Upon suspension or revocation of any~~[such]~~ license the commissioner shall~~[forthwith]~~ notify the licensee~~[thereof]~~ either in person or by mail addressed to the licensee at his ***or her*** address last of record with the commissioner. Notice by mail shall be deemed effectuated when so mailed. The commissioner shall give like notice to the insurer represented by the agent, in the case of an agent's license~~[, and to the employer in the case of a solicitor's license]~~.

(2)~~[Suspension or revocation of the license of an agent shall automatically suspend the licenses of all solicitors employed by him.~~

~~(3)]~~ The commissioner shall not again issue a license under this code to or as to any ***individual or business entity***~~[person]~~ whose license has been revoked, until after expiration of one (1) year and thereafter not until ***the individual or business entity***~~[such person]~~ again qualifies~~[therefor]~~ in accordance with the applicable provisions of this code. ***An individual or***

business entity[~~A person~~] whose license has been revoked twice shall not again be eligible for any license under this code.

(3)[~~(4)~~]If the license of a ***business entity***[~~firm or corporation~~] is[~~ so~~] suspended or revoked, no member*,*[~~ of such firm, or~~] officer*,* or director of ***the business entity***[~~such corporation,~~] shall be licensed or be designated in or as to any license to exercise the powers thereof during the period of ***the***[~~such~~] suspension or revocation, unless the commissioner determines upon substantial evidence that ***the***[~~such~~] member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

(4) In the event that the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner in accordance with KRS 304.2-310.

Section 36. KRS 304.9-455 is amended to read as follows:

(1) Each person licensed under this subtitle shall notify the commissioner in writing immediately if his ***or her*** license to conduct ***insurance*** securities, real estate, auctioneer, investment, financial, or financial planning business of any kind in this state or elsewhere is surrendered or terminated under threat of disciplinary action, refused, suspended, revoked, or renewal of continuance denied.

(2) A licensee shall report to the commissioner any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

(3) Within thirty (30) days of service upon the licensee of any criminal complaint, information, or indictment in any jurisdiction, the licensee shall submit to the commissioner a copy of the initial complaint, indictment, or information filed. The licensee shall further submit copies of all relevant legal documents, including the order resulting from the hearing, any plea, agreement, judgment, or other relevant legal documents.

SECTION 37. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall not assess a greater fee for an insurance license or related service to an individual or business entity not residing in this state, based solely on the fact that the individual or business entity does not reside in this state.

Section 38. KRS 304.10-020 is amended to read as follows:

This Surplus Lines Law shall not apply to reinsurance, or to the following insurances when so placed by[~~ licensed~~] agents or surplus lines brokers ***licensed in***[~~of~~] this state:

(1) Ocean marine and foreign trade insurances.

(2) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(3) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(4) Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of[~~ such~~] aircraft or against liability other than workers' compensation and employer's liability arising out of the ownership, maintenance or use of[~~ such~~] aircraft.

Section 39. KRS 304.10-070 is amended to read as follows:

(1) A broker shall not place surplus lines insurance with an insurer that he ***or she*** knows, or in the exercise of reasonable diligence could know***:***

   (a) Has a surplus in regard to ***policyholders***[~~policyholder~~] of less than ***six***[~~three~~] million dollars ***($6,000,000);***[~~($3,000,000),~~]

   (b) Has not established satisfactory evidence of good repute and financial integrity;

   (c) Is unsound financially***;***[~~,~~] or[~~ that~~]

   (d) Is ineligible under the Kentucky insurance code.

(2) A broker may:

   (a) Place insurance covering certificates of investment with an insurance company or guarantee fund which is financially sound and has capital funds and reserves in excess of fifteen million dollars ($15,000,000); and

   (b) Place insurance with a United States insurance exchange which the commissioner, in his ***or her*** discretion, may designate for use by surplus lines brokers licensed by the Commonwealth of Kentucky.

(3) A broker shall not place insurance with an alien insurer that is not recognized by the National Association of Insurance Commissioners and does not maintain in the United States a trust fund for the benefit of United States policyholders of at least ***five***[~~one~~] million ***four***[~~five~~] hundred thousand dollars ***($5,400,000)***[~~($1,500,000)~~].

(4) A broker shall not place insurance with an insurer that has engaged in the insurance business less than three (3) years unless ***the***[~~such~~] insurer has deposited with the ***commissioner***[~~custodian of insurance securities~~] publicly-traded securities

with a market value of at least ***six***[~~three~~] hundred thousand dollars ***($600,000)***[~~($300,000)~~].

(5) This section shall not apply to surplus lines insurers eligible to do business in Kentucky as of July 15, 1982, except that the commissioner may revoke[~~ such~~] eligibility, or may order ***the***[~~such~~] insurer to comply with this section or may suspend the operation of the insurer in Kentucky.

(6) The commissioner may declare that a surplus lines insurer is ineligible to transact business in Kentucky. The commissioner shall promptly mail notice of all declarations of ineligibility to each surplus lines broker if at any time the commissioner has reason to believe that a surplus lines insurer:

(a) Is in unsound financial condition;

(b) Has acted in an untrustworthy manner;

(c) No longer meets the standards set forth in this subtitle;

(d) Has willfully violated the laws of Kentucky; or

(e) Does not conduct a proper claims practice.

Section 40. KRS 304.10-110 is amended to read as follows:

(1) As to a surplus lines risk which has been assumed by an unauthorized insurer ***under***[~~pursuant to~~] this subtitle, and if the premium[~~ thereon~~] has been received by the surplus lines broker who placed ***the***[~~such~~] insurance, in all questions[~~ thereafter~~] arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for ***the***[~~such~~] coverage; and the insurer shall be liable to the insured as to losses covered by ***the***[~~such~~] insurance and for unearned premiums which may become payable to the insured upon cancellation of ***the***[~~such~~] insurance whether or not in fact the broker is indebted to the insurer with respect to ***the***[~~such~~] insurance or for any other cause.

(2) Each unauthorized insurer assuming a surplus lines risk under this subtitle shall be deemed[~~ thereby~~] to have subjected itself to the terms of this section.

Section 41. KRS 304.10-120 is amended to read as follows:

(1) Any person while licensed in this state as ***an***[~~a resident general lines~~] agent who:

(a) ***Is a resident of Kentucky;***

(b) Has been continuously licensed for at least three (3) years;

(c)[~~(b)~~]Is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines; ***and***

(d)[~~(c)~~]Represents at least three (3) insurers admitted to transact property or casualty insurance in Kentucky;[~~ and~~

~~(d) Maintains an office at a designated location in this state;~~]

may be licensed as a surplus lines broker.

(2) Application for the license shall be made to the commissioner on forms as designated and furnished by the commissioner.

(3) The license fee shall be as specified in KRS 304.4-010.

(4) The license and licensee shall be subject to the applicable provisions of Subtitle 9 ***of this chapter***.

(5) In order for a surplus lines broker's license to be renewed, the licensee ***shall***[~~must~~] have at least five (5) current appointments with property or casualty insurers admitted to do business in Kentucky.

(6) Notwithstanding subsection (1)(a) of this section, on or after July 1, 2002, an individual licensed as a surplus lines broker in the applicant's home state may be issued a nonresident surplus lines broker's license in Kentucky if the applicant's home state issues surplus lines broker licenses to Kentucky residents on the same basis.

Section 42. KRS 304.10-130 is amended to read as follows:

(1) The commissioner may suspend or revoke any surplus lines broker's license:

(a) If the broker fails to file his ***or her*** annual statement or to remit the tax as required by this subtitle; or

(b) If the broker fails[~~ to maintain an office in this state, or~~] to keep records, or to allow the commissioner to examine his ***or her*** records as required by this subtitle[~~, or if he removes his records from the state~~]; or

(c) If the broker knowingly or negligently places a surplus lines coverage in an insurer that is in unsound financial condition in violation of KRS 304.10-070; or

(d) For any other applicable cause for which ***an***[~~a general lines~~] agent's license may be suspended or revoked.

(2) The procedures provided by Subtitle 9 ***of this chapter*** for suspension or revocation of licenses shall apply to suspension or revocation of a surplus lines broker's license.

(3) Upon suspending or revoking the broker's surplus lines license the commissioner shall also suspend or revoke all other licenses of or as to the same ***individual***[~~person~~] under this code.

(4) No broker whose license has been suspended or revoked shall again be so licensed until any fines or delinquent taxes ***owed***[~~owing by him~~] have been paid, or, in case of revocation until after expiration of one (1) year from the date

revocation became final.

Section 43. KRS 304.10-140 is amended to read as follows:

Prior to issuance of a license as a surplus lines broker, the applicant shall file with the commissioner, and[~~ thereafter~~] for as long as the license remains in effect shall keep in force:

(1) Evidence of financial responsibility in the sum of not less than ***one million***[~~five hundred thousand~~] dollars ***($1,000,000)***[~~($500,000)~~] per occurrence, and the sum of ***two***[~~one~~] million[~~ five hundred thousand~~] dollars ***($2,000,000)***[~~($1,500,000)~~] in the aggregate, for all[~~ such~~] occurrences within one (1) year, either in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or ***a***[~~any~~] combination of ***a bond issued by an authorized corporate surety and a deposit,***[~~these evidences of financial responsibility~~]. ***The***[~~Such~~] policy, bond, deposit, or combination ***of a bond or deposit***[~~thereof~~] shall not be terminated unless at least thirty (30) days' prior written notice is given to the licensee and the commissioner; and

(2) A bond in favor of the State of Kentucky in the penal sum of ***fifty***[~~twenty~~] thousand dollars ***($50,000)***[~~($20,000)~~], with an authorized corporate surety guaranteeing that he ***or she*** will conduct business under the license in accordance with the provisions of this subtitle and that he ***or she*** will promptly remit the taxes required by KRS 304.10-180. The aggregate liability of the surety for any and all claims on any[~~ such~~] bond shall in no event exceed the penal sum[~~ thereof~~]. No[~~ such~~] bond shall be terminated unless not less than thirty (30) days prior written notice[~~ thereof~~] is given to the licensee and filed with the commissioner.

Section 44. KRS 304.10-160 is amended to read as follows:

(1) Each broker shall keep in his ***or her*** office[~~ in this state~~] a full and true record of each surplus lines coverage procured by him ***or her***, including a copy of each daily report, if any, a copy of each certificate of insurance issued by him ***or her***, and[~~ such~~] of the following items as may be applicable:

(a) Amount of the insurance;

(b) Gross premium charged;

(c) Return premium paid, if any;

(d) Rate of premium charged upon the several items of property;

(e) Effective date of the contract, and the terms thereof;

(f) Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by ***the***[~~such~~] insurer if less than the entire risk;

(g) Name and address of the insured;

(h) Brief general description of the property or risk insured and where located or to be performed; and

(i) Other information as may be required by the commissioner.

(2) The record[~~ shall not be removed from this state and~~] shall be open to examination by the commissioner at all times within five (5) years after issuance of the coverage to which it relates.

Section 45. KRS 304.10-180 is amended to read as follows:

(1) [~~On or before the first day of April of each year~~]Each broker shall ***pay the following taxes***[~~remit to the State Treasurer through the commissioner~~]***:***

(a) ***On or before the first day of April each year,*** a tax at the rate of three percent (3%) on the premiums, ***assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030***[~~exclusive of sums collected to cover federal and state taxes and examination fees~~], on surplus lines insurance subject to tax transacted by him ***or her*** with unauthorized insurers during the preceding calendar year as shown by his ***or her*** annual statement filed with the commissioner. ***The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner.*** When collected the tax shall be credited to the ***insurance regulatory trust***[~~general~~] fund***, as established by KRS 304.2-400;***

(b) ***The premium surcharge tax, to be remitted to the Kentucky Revenue Cabinet, in accordance with KRS 136.392; and***

(c) ***The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080***.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Section 46. KRS 304.2-120 is amended to read as follows:

(1) In general, orders and notices of the commissioner shall be issued in accordance with this chapter. Notices, recommended orders, and final orders issued as a result of an administrative hearing shall be issued in accordance with KRS Chapter 13B.

(2) Orders and notices of the commissioner shall be effective only when in writing signed by ***the commissioner***[~~him~~] or by ***the commissioner's***[~~his~~] authority.

(3) Every order of the commissioner shall state its effective date, and shall concisely state:

(a) Its intent or purpose;

(b) The grounds on which ***it is*** based;

(c) The provisions of this code ***under***[~~pursuant to~~] which action is[~~ so~~] taken or proposed to be taken; and

(d) All other matters required by law.

(4) All persons holding licenses or certificates of authority from the commissioner shall maintain current residence, business, home office, and administrative addresses, as applicable, on file with the commissioner. ***Licensees***[~~These persons~~] shall ***inform***[~~notify~~] the commissioner in writing ***in a format acceptable to the commissioner of***[~~immediately upon~~] any change in addresses ***or legal name within thirty (30) days of the change***. As a condition to holding a license or certificate of authority from the commissioner, persons holding licenses or certificate of authority are deemed to have consented to service of notices and orders of the commissioner at their addresses on file with the commissioner and any notice or order of the commissioner mailed or delivered to the address on file with the commissioner constitutes valid service of notice or order.

Section 47. KRS 189.285 is amended to read as follows:

(1) A person shall not operate a motorcycle on a highway:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) A person shall not operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.

(3) The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:

(a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;

(b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; ***and***

(c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle operator's license, for less than one (1) year and who is operating a motorcycle[~~; and~~

~~(d) Any person who does not provide proof of health insurance to the county clerk when registering a motorcycle in accordance with KRS 186.865~~].

(4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

(5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(6) As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

(7) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

Section 48. The following KRS sections are repealed:

186.865 Motorcycle registration requirements -- Health insurance requirements.

304.4-015 Payment schedule for biennial fees.

304.9-050 "Solicitor" defined.
304.9-060 "Service representative" defined -- General requirements.
304.9-220 Multiple licensing, life agents.
304.9-380 Solicitors -- Special requirements.
304.9-434 Exemption from written examination.
304.9-455 Licensed person to notify commissioner of licensure disciplinary action.

Representative Riggs moved that the House concur in the Senate Committee Substitute to **HB 875**. Agreed.

Representative Riggs moved that **HB 875**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 28, 2000 roll call on **HB 875** - Appendix.)

HB 875, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 875**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 677, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 677** is as follows:

HB 677, AN ACT relating to real estate brokerage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) All actively licensed agents except those licensees exempt under subsection (5) of Section 7 of this Act, shall successfully complete six (6) classroom hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law. The commission shall promulgate administrative regulations to establish procedures for implementing this requirement.

(2) In order to qualify to teach continuing education courses, all continuing education instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) No person shall:

(a) Solicit or request a referral fee from a real estate licensee unless that person introduced the business to the real estate licensee from whom the referral fee is sought and a contractual referral fee relationship exists between the person and the real estate licensee; or

(b) Threaten to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a client of a real estate licensee because of an agency relationship.

(2) No real estate licensee, relocation firm, or firm with a corporate relocation policy or benefits, or anyone on behalf of any licensee or firm, shall counsel a client of another real estate licensee regarding the manner in which the client may terminate or amend an existing listing contract, buyer agency agreement, or other agency relationship. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered a violation of this section, as long as the communication does not involve advice or encouragement regarding the manner in which the client may terminate or amend an existing agency relationship.

(3) Violation of this section by a broker or sales associate shall be considered improper conduct as referred to in subsection (4)(v) of Section 17 of this Act. Violation of this section by unlicensed persons shall be subject to the penalties in KRS 324.990.

Section 3. KRS 324.010 is amended to read as follows:

[~~(1)~~]As used in this chapter, unless the context requires otherwise:

(1)[~~(a)~~]"Real estate brokerage" means a single, multiple, or continuing act of ***dealing in time shares or options,*** selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee,[~~ commission,~~] compensation, or other valuable consideration;

(2)[~~(b)~~]"Commission" means the Kentucky Real Estate Commission;

(3)[~~(c)~~]"Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the ***fee compensation or other valuable consideration***[~~commission~~];

(4)[~~(d)~~]"Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;

(5)[~~(e)~~]"Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;

(6)[~~(f)~~] "Sales associate" means any person ***licensed in accordance with subsection (2) of Section 7 of this Act that is affiliated***[~~associated~~] with a Kentucky-licensed principal broker[~~ who is licensed under KRS 324.046(2)~~] and ***who, when engaging in***[~~performs acts of~~] real estate brokerage***, does so*** under the ***supervision***[~~direction and control~~] of the principal broker;

(7)[~~(g)~~]"Approved real estate school" means:

(a)[~~1.~~] A school that has been given a certificate of approval by the State Board for Proprietary Education ***or other regulatory bodies that exercise jurisdiction over accreditation and approval*** and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the State Board for Proprietary Education ***or other regulatory bodies that exercise jurisdiction over accreditation and approval*** and the commission; or

(b)[~~2.~~] A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;

(8)[~~(h)~~]"Accredited ***institution***[~~real estate school~~]" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward ***a program for either an associate, baccalaureate, graduate, or professional degree***[~~an associate degree or a baccalaureate degree to those students successfully completing a course in real estate~~];

(9)[~~(i)~~] "Property management" means the overall management of real property for others for a fee,[~~ commission,~~] compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;[~~ and~~]

(10)[~~(j)~~] "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage***;***

(11) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;

(12) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;

(13) "Designated agency" means a form of agency relationship that exists when a principal broker, in accordance with Section 13 of this Act, identifies different licensees in the same real estate brokerage firm to separately represent more than one (1) party in the same real estate transaction;

(14) "Affiliation" means the relationship agreed upon between a licensee and a principal broker and reported to the commission, where the licensee places his license with the principal broker for supervision of the licensee's real estate brokerage activity;

(15) "Canceled" means the status of a license when a licensee fails to renew a license, writes the commission a check for fees that is not honored, fails to re-affiliate with a principal broker, or fails to complete requirements for continuing education;

(16) "Suspended" means the status of a license when disciplinary action has been ordered against a licensee that prohibits the brokerage of real estate for a specific period of time; and

(17) "Revoked" means the status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years.

[~~(2) One (1) act for a fee, commission, compensation, or other valuable consideration of buying or selling real estate of or for another; offering for another to buy, sell, or exchange real estate; leasing, renting, or offering to rent real estate; referring or offering to refer real estate for the purpose of securing prospects; or dealing in options or time sharing shall constitute the person performing, offering, or attempting to perform the act as a broker or sales associate.~~]

Section 4. KRS 324.020 is amended to read as follows:

(1) It shall be unlawful for any person ***who is not licensed as a real estate broker or sales associate to hold himself out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate***[~~to act as a broker or real estate sales associate or to~~

~~advertise or assume to act as a broker or sales associate within the Commonwealth of Kentucky, without a license issued by the Kentucky Real Estate Commission~~].

(2) ***No person shall practice real estate brokerage unless the person holds a license to practice real estate brokerage under this chapter.***

(3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.

(4)[~~(3)~~]No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may ***compensate***[~~pay a commission to~~] or split fees with a broker licensed outside of Kentucky[~~ who represents an out-of-state client~~].

(5)[~~(4)~~]***Except as authorized in subsection (1) of Section 10 and Section 33 of this Act,*** no sales associate[~~ licensed in Kentucky~~] shall supervise another licensed sales associate or manage ***a real estate brokerage***[~~an~~] office[~~, except by permission of the commission and when acting on the death of the principal broker~~].

(6)[~~(5)~~]The Kentucky Real Estate Commission may seek and obtain injunctive relief against any unlicensed individual acting in violation of this chapter by filing a civil action in the Circuit Court where the commission is located or where the unlawful activity took place.

Section 5. KRS 324.030 is amended to read as follows:

KRS 324.020(1) ***and (2)*** shall not apply to:

(1) Any person who as owner or lessor***, including builders,*** performs any of the acts defined in KRS 324.010 with reference to property owned or leased by him or to his regular employees, with respect to the property so owned or leased, if the acts are performed in the regular course of, or as an incident to, the management of the property and the investment in it;

(2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchange of real estate;

(3) Any attorney-at-law who is performing his duties as attorney-at-law;

(4) Any receiver, trustee in bankruptcy, administrator, or executor, person selling real estate under order of any court, or a trustee acting under a trust agreement, deed of trust, or will or the regular[~~ salaried~~] employees thereof;

(5) A person engaged in property management, if the person:

(a) Is a regular employee of the owner or principal broker of the company engaged in property management; or

(b) Receives as his primary compensation the use of a rental unit***; or***

(6) A nonlicensed person under the supervision of a licensed real estate broker who contacts the public for the purpose of setting an appointment for the broker to meet with them regarding buying or selling property.

Section 6. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a broker or sales associate in a manner to safeguard the interest of the public, and only after satisfactory proof of qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness, and good reputation of any applicant for a license, each applicant shall pass a written examination conducted by the commission, or its authorized representative. The examination shall be of the scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a broker or sales associate in a manner to protect the interests of the public. However, an examination shall not be required for the renewal of any present or future license, unless the license has been revoked, suspended, or is allowed to expire without renewal for a period of more than one (1) year.

(3) The commission shall hold examinations at the times and places it determines, and an examination fee shall be collected from each applicant to defray the expenses of holding the examinations.

(4) The commission may, by the promulgation of administrative regulations, require all licensure applicants to submit to a criminal record check for which the applicant shall be responsible for the payment of any fees incurred.

Section 7. KRS 324.046 is amended to read as follows:

(1) Every applicant for initial licensure as a broker shall have***:***

(a) Successfully completed not less than twenty-one (21) academic credit hours or the equivalent ***from an accredited institution or approved real estate school.***[~~with at least~~] Twelve (12) hours ***shall be*** in real estate courses***, three (3) hours of which shall be a course in broker management skills. The commission shall, by promulgation of administrative regulations, determine the required course content of broker management skills courses; and***[~~from an accredited or approved real estate school and shall have~~]

(b) Been engaged in the real estate business as a sales associate averaging at least twenty (20) hours per week for a period of ***thirty six (36)***[~~twenty-four (24)~~] months prior to application.

(2) Every applicant for initial licensure as a sales associate shall have successfully completed six (6) academic credit hours or

their equivalent in real estate courses from an accredited ***institution*** or approved real estate school.

(3) Proof of the academic credit hours shall be an official transcript from the attended university and a sworn notarized affidavit signed by both the applicant and his or her principal broker or other documentation satisfactory to the commission. The applicant may file a complaint with the commission if the principal broker unjustly refuses to sign the affidavit.

(4) The commission may reduce the ***three (3)***~~[two (2)]~~ year experience requirement for applicants for a broker's license to ***two (2) years***~~[one (1) year]~~, if the applicant has an associate degree in real estate or a baccalaureate degree with a major ***or minor*** in real estate.

(5) Persons licensed under the real estate laws of this state prior to June 19, 1976~~[:~~

~~(a) Who have continuously maintained an active license since that date]~~ shall not be subject to any educational changes in this chapter or subject to any continuing education requirements~~[; and~~

~~(b) Who have not continuously maintained an active license since that date may be exempted from continuing education requirements if the commission determines their qualifications merit such an exemption]~~.

Section 8. KRS 324.090 is amended to read as follows:

(1) Licenses shall expire on the thirty-first day of March of each year. The commission shall renew a license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and payment of the annual fees required. A new license shall be mailed only if the licensee's name, address, status, or affiliation changes.

(2) A fine not to exceed two hundred dollars ($200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time nor shall failure of the mail.

(3) Any license not renewed at the end of the renewal year as prescribed by the commission shall automatically revert to expired status. ***An expired***~~[The]~~ license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

Section 9. KRS 324.111 is amended to read as follows:

(1) A principal broker shall maintain an escrow account or accounts, separate from the individual or office account, in which all contract deposits and money belonging to others shall be deposited without unreasonable delay. The escrow accounts shall be maintained within the State of Kentucky and shall be identified to the commission in writing.

(2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the person agreed to in writing by all parties.

(3) No checks shall be drawn against uncollected deposits in the escrow account.

(4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.

(5) Upon licensure and each renewal, the principal broker shall sign a permit giving the commission the permission to audit all his escrow accounts.

(6) Upon being notified that one (1) or more parties to a contract intends not to perform, the broker may release the contract deposit as provided in the contract or if no provision is made in the contract, the broker may initiate the release process. The release process shall require the broker to notify all parties at their last known address by certified mail that the contract deposit shall be distributed to the parties specified in the letter ***unless all parties***~~[if the parties fail to perform,]~~ enter into a written mutual release, or ***unless one (1) or more of the parties*** initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit ***to the party identified in the certified letter*** without penalty under this section ***and without civil liability in the courts of the Commonwealth of Kentucky***.

(7) All principal brokers whose companies engage in property management shall maintain property management accounts separate from all other accounts ***or specifically indicate in all escrow records if funds are property management funds***.

(8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.

Section 10. KRS 324.112 is amended to read as follows:

(1) ***With the approval of his or her principal broker, any broker or***~~[No principal broker shall maintain a branch office outside a fifty (50) mile radius of the main office without having a broker managing the branch office.~~

~~(2) A]~~ sales associate with two (2) years experience in the real estate business, averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior, may manage a branch office ***of the principal broker***~~[inside a fifty (50) mile radius of the main office]~~.

(2)[~~(3)~~]The licenses of all ***licensees***[~~brokers and sales associates~~] shall be kept on file in the ***main*** office ***of the principal broker with whom they are***[~~in which they are actively engaged and~~] affiliated.

(3) A principal broker in the process of closing a real estate brokerage business may affiliate temporarily with another principal broker if:

(a) No other licensee is affiliated with the former principal broker;

(b) Both the former and the latter principal brokers represent to the commission that the affiliation is for the purpose of closing the former principal broker's business; and

(c) Both the former and the latter principal brokers give assurances satisfactory to the commission that no consumer will be adversely affected by the affiliation or the closing of the former principal broker's business.

Section 11. KRS 324.115 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every broker licensed under KRS 324.045 shall maintain a definite place of business in this state***.***

(2) A[~~, except a~~] broker who is a nonresident shall not be required to maintain an active place of business in this state if***:***

(a) He or she maintains a business place in the state of original licensure***;***

(b) The state of original licensure, in accordance with its reciprocity agreement with the commission, does not require Kentucky licensees holding licenses in that state to maintain an office in that state; and

(c) Paragraphs (a) and (b) of this subsection do not conflict[~~, unless this provision conflicts~~] with the commission's agreement of reciprocity with the state of original licensure.

Section 12. KRS 324.117 is amended to read as follows:

(1) ***No real estate advertising shall be intentionally false, misleading, or deceptive***[~~Real estate advertising shall not be false, misleading, or deceptive. All real estate advertising shall specify the names of the real estate company listed on the licensee's real estate license or the name of the principal broker and a designation indicating that the licensee is engaged in the real estate business. The commission shall promulgate administrative regulations to define false, misleading, or deceptive advertising~~].

(2) ***Every licensee who advertises shall identify in all advertising materials either:***

(a) The real estate company listed on the license; or

(b) The name of the licensee's principal broker followed by the word "broker."

(3) The requirement of subsection (2) of this section shall not apply if the licensee is transacting business relating to the marketing, sale, or lease of property which the licensee owns.

(4) The name of a deceased broker may remain a part of the firm name.

(5)[~~(3)~~]No associate may have his or her name in the firm name.

[~~(4) Any sales associate or broker affiliated with a principal broker shall advertise in the name of the real estate company listed on the associate's or broker's real estate license or the name of the principal broker, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property.~~]

(6) The commission shall, by the promulgation of administrative regulations, define false, misleading, or deceptive advertising.

(7) The commission shall, by the promulgation of administrative regulations, define the manner in which licensees may utilize any internet electronic communication for advertising or marketing.

Section 13. KRS 324.121 is amended to read as follows:

(1) A principal broker may ***designate one (1) or more affiliated licensees***[~~appoint himself or herself or a licensee with which he or she is associated~~] to act as[~~ an~~] agent for a seller ***or lessor, to the exclusion of all other licensees affiliated with the principal broker. A principal broker may designate one (1) or more affiliated licensees to act as agent for a***[~~or~~] buyer ***or lessee,*** or prospective buyer ***or lessee*** to the exclusion of all other licensees ***affiliated***[~~associated~~] with the principal broker. ***The designation procedure shall be made in writing and communicated to all licensees affiliated with the principal broker. The designated agent shall inform and obtain the consent of the buyer or lessee, or prospective buyer or lessee to the designation.***

(2) If a principal broker ***designates***[~~appoints~~] one (1) ***or more licensees***[~~licensee~~] to represent the seller and ***one (1) or more other licensees***[~~another licensee~~] to represent the buyer or the prospective buyer in the same transaction, ***only*** the principal broker[~~, the firm, or the licensees~~] shall[~~ not~~] be deemed to be ***a*** dual ***agent representing the seller and buyer in a limited fiduciary capacity. As a dual agent, the principal broker shall not disclose to either party confidential information learned relative to the other party. Except as set forth in subsection (3) of this section, this designation shall not affect the principal broker's agency relationships in cooperative sales between consumers separately represented by nonaffiliated principal brokers***[~~agents~~].

(3) ***No exchange of information or***[~~If the licensees are appointed in accordance with subsection (1) of this section,~~]

knowledge between or among ***consumers, whether*** the seller,~~[the]~~ buyer, ***lessor, or lessee, and*** the principal broker, the firm, or the licensees shall~~[not]~~ be imputed ***as a matter of law in any real estate transaction***.

(4) Nothing in this section shall prevent a real estate brokerage firm or licensee from entering into a dual agency relationship with ***consumers in a real estate transaction***~~[the seller and the buyer or the prospective buyer if the firm or licensee complies with the provisions of this chapter and administrative regulations promulgated by the commission on agency disclosure. Any licensee who, after such compliance, personally represents both the seller and the buyer in a particular transaction shall be deemed a disclosed dual agent]~~.

Section 14. KRS 324.142 is amended to read as follows:

Any licensee who ***engages***~~[proposes to engage]~~ in~~[sales of a]~~ promotional ***activities***~~[nature]~~ in this Commonwealth for property located outside of this Commonwealth shall first apply to the commission for its approval before so doing, and shall comply with administrative regulations, restrictions, and conditions the commission may impose as well as those provisions set forth in this chapter.

Section 15. KRS 324.150 is amended to read as follows:

(1) The commission or its staff may on its own initiative ***investigate the actions of any licensee or any person who acts in that capacity.***~~[, and shall]~~ On the verified written complaint of any person, ***the commission shall*** investigate the actions of any~~[broker or sales associate or any]~~ person who assumes to act in ***that***~~[such]~~ capacity, if the complaint,~~[or complaint]~~ together with ***any***~~[other]~~ evidence presented in connection with it, ***alleges***~~[makes out]~~ a prima facie case ***that a violation set out in Section 17 of this Act has been committed. After the investigation, the commission***~~[. It]~~ may ***order a hearing and, in appropriate cases, take disciplinary action against***~~[suspend or revoke]~~ any ***licensee who is found in violation of***~~[license for grounds stated in]~~ KRS 324.160.

(2) To investigate allegations of practices violating the provisions of this chapter, the commission may:

(a) Issue subpoenas to compel attendance of witnesses and the production of documents;

(b) Administer oaths;

(c) Examine witnesses; and

(d) Pay appropriate witness fees.

Section 16. KRS 324.151 is amended to read as follows:

(1) All complaints against licensees shall be submitted to the commission on forms furnished by the commission. The complaint shall state facts which, if true, would ***constitute***~~[make out]~~ a prima facie case ***that the licensee has violated the provisions of Section 17 of this Act***~~[against the licensee]~~. ***If the complaint does not constitute a prima facie case, the commission shall allow the complainant ten (10) days to revise and supplement the complaint in order to cure any defect. If the complainant fails to respond within ten (10) days or if the revised and supplemented complaint does not constitute a prima facie case that the licensee has violated the provisions of Section 17 of this Act, the commission shall dismiss the matter without requiring the licensee to file or serve a response.***

(2) ***If the complaint constitutes a prima facie case that a licensee has violated the provisions of Section 17 of this Act,*** a copy of the complaint, exhibits attached thereto, and any subsequent pleadings, shall be served on the licensee~~[defendant]~~, by the commission, at the licensee's last known address and shall show certification that there has been service by writing to the last known address.

(3) ***If the commission serves the complaint upon the licensee,*** the~~[defendant]~~ licensee shall file with the commission an answer to the complaint,~~[and]~~ properly notarized, on forms secured from commission offices. The answer shall be returned to the commission within twenty (20) days***. The licensee shall deliver to the complainant at his last known address***~~[and]~~ a copy of the answer, exhibits attached thereto, ***and***~~[as well as]~~ any subsequent pleadings~~[, shall be served on complainant and shall show certification that there has been service by writing to the last known address]~~. All further pleadings in the matter filed with the commission by either party shall show that a copy has been furnished to the opposing party or parties.

Section 17. KRS 324.160 is amended to read as follows:

(1) The commission may ***order any or all of the following sanctions for violation of subsections (4) to (7) of this section:***

(a) Suspension of any license;~~[suspend or]~~

(b) Revocation of~~[revoke]~~ any license***;***~~[or]~~

(c) Levy ***of*** fines not to exceed ***one thousand dollars ($1,000);***~~[five hundred dollars ($500), or both, and]~~

(d) Placing of~~[place]~~ any licensee on probation for a period of up to twelve (12) months***;***~~[or]~~

(e) Requiring~~[require]~~ successful completion of academic credit hours ***or additional credit hours*** in real estate courses from an accredited ***institution*** or approved real estate school***;*** or

(f) Issuing~~[issue]~~ a formal ***or informal*** reprimand***.***~~[or order a licensee to pay restitution in an amount to be determined by the commission after a hearing, as a condition of continued licensure, for any of the following causes:]~~

(2) A canceled license may be renewed if the licensee pays all necessary fees and meets all other active licensure requirements within one (1) year of the cancellation date. No licensee whose license is canceled shall engage in real estate brokerage during the period of cancellation or receive any compensation for real estate brokerage unless the compensation was earned prior to the effective date of the cancellation.

(3) No licensee whose license is suspended shall engage in real estate brokerage or receive any compensation for real estate brokerage unless the compensation was earned prior to the suspension period.

(4) The commission shall impose sanctions set out in subsection (1) of this section against a licensee for:

(a) Obtaining a license through false or fraudulent representation;

(b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;

(c) Making any false promises of a character likely to influence, persuade, or induce;

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;

1. A real estate licensee shall not directly or indirectly buy property listed with him or her ***or with the broker with whom the licensee is affiliated,*** nor acquire an interest therein, without ***first indicating in writing on the offer to purchase his or her status as a licensee***[~~making his or her true position clearly known in writing on the sales contract or offer to purchase~~];

2. Before a[~~ real estate~~] licensee ***becomes a party to a contract to purchase real property, the licensee shall disclose his or her status as a licensee to all parties to the transaction, in writing, on the sales contract or on the offer to purchase;***[~~buys,~~]

3. Before a licensee sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose***, in writing,*** any interest in the property to all parties to the transaction;

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker ***in accordance with a compensation agreement between them***[~~at the time the brokerage agreement was obtained~~]. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of ***the***[~~that~~] principal broker ***with whom the licensee is affiliated***;

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment;

(i) Paying valuable consideration to any person for services performed in violation of this chapter;

(j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony ***or of a misdemeanor involving sexual misconduct***[~~and~~] the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction[~~,~~] suspending the imposition of sentence***;***[~~, or~~]

(k) Failing to report a[~~ felony~~] conviction,[~~ or~~] plea of guilty[~~ to a felony~~], or an "Alford" plea to a felony ***or a misdemeanor involving sexual misconduct*** to the commission;[~~or~~]

(l) Soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice***;***[~~, or~~]

(m) Offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate***;***[~~, or~~]

(n) Acting in the dual capacity of ***licensee***[~~broker~~] and undisclosed principal in ***any real estate***[~~the~~] transaction;

(o)[~~(k)~~]Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;

(p)[~~(l)~~] Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property, or attempting to obtain a brokerage agreement with ***a consumer***[~~an owner or lessor~~] knowing that the ***consumer***[~~owner or lessor~~] had a written outstanding contract granting exclusive agency ***with***[~~in connection with the property to~~] another real estate broker;

(q)[~~(m)~~] Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;

(r)[~~(n)~~]Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;

(s)[~~(o)~~]Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;

[~~(p) Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020(3);~~]

(t)[~~(q)~~] Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;

(u)[~~(r)~~] Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or

(v)[~~(s)~~] Gross negligence.

(5)[~~(2)~~]Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection ***(4)(u)***[~~(1)(r)~~] of this section.

(6)[~~(3)~~]No unlawful act or violation of any provision of this chapter by any affiliated licensee of the principal broker shall be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation and did not prevent it. The principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. ***The***[~~A principal broker's~~] failure ***of a broker or his designated manager*** to exercise adequate supervision of the licensed affiliates shall constitute a violation of this chapter.

(7)[~~(4)~~]The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

Section 18. KRS 324.170 is amended to read as follows:

(1) The commission shall, before denying an application for license or before ***ordering any disciplinary action against a licensee,***[~~suspending or revoking any license, set the matter down for~~] ***order*** a hearing. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. If the applicant or licensee is a sales associate, the commission shall also notify the principal broker of the hearing by mailing notice by certified mail, return receipt requested, to the broker's last known business address. The commission shall order the presence of the principal broker ***or his designated representative*** at the hearing.

(2) All hearings shall be conducted by a quorum of the commission or by a hearing officer appointed by the commission. Hearing officers shall not ***order any disciplinary action against a licensee***[~~suspend, revoke, or fine any licensee or place any licensee on probation~~]. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to prepare a recommended order to be submitted to the commission.

Section 19. KRS 324.200 is amended to read as follows:

(1) If the commission ***determines***[~~shall determine~~] after a hearing that any applicant is not entitled to receive a license, a license shall not be granted to the applicant, and if the commission ***determines***[~~shall determine~~] after a hearing that any licensee ***has violated***[~~is guilty of a violation of~~] any of the provisions of this chapter, the ***disciplinary measures in subsection (1) of Section 17 of this Act may be ordered***[~~license shall be suspended or revoked~~].

(2) Any party aggrieved by the action of the commission in refusing to grant a license or in ***ordering any disciplinary action***[~~suspending or revoking a license~~] may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B. Disciplinary action imposed by the commission shall be automatically stayed during the pendency of an appeal to a circuit or appellate court, unless otherwise indicated in the final order of the commission.

Section 20. KRS 324.220 is amended to read as follows:

No person who has had a broker's or sales associate's license revoked shall be issued another license for five (5) years from the date of revocation. All persons seeking issuance of another license after ***the five (5) year period of*** revocation may do so only at the discretion of the commission and shall retake the appropriate examination and meet all of the contemporary licensing requirements.

Section 21. KRS 324.230 is amended to read as follows:

The revocation ***or suspension*** of a principal broker's license shall automatically ***render inactive***[~~suspend~~] every license granted to any person by virtue of association with the principal broker whose license has been revoked ***or suspended***, pending a change of principal broker and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted.

Section 22. KRS 324.281 is amended to read as follows:

(1) There is hereby created the Kentucky Real Estate Commission. The Governor shall appoint five (5) persons, at least four (4) of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the commission shall be for four (4) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section.

(2) ***All***[~~Vacancies occurring in 1984 shall be filled by one (1) appointment for a three (3) year term and one (1) appointment for a four (4) year term; all subsequent~~] appointments shall be for the specified four (4) year term.

(3) For each appointment or vacancy, the Kentucky Association of Realtors shall supply a list of not less than three (3) names of licensees to the Governor each year from which the broker or sales associate appointments shall be made. The Governor may fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.

(4) There shall not be more than three (3) of any one (1) political party serving on the commission at the same time. Appointees to fill vacancies shall be appointed for the unexpired term.

(5) It shall be the duty of the commission to ***promulgate***[~~draft~~] administrative regulations; to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter ***or alternatively to contract with an entity to conduct examinations***; to conduct necessary educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized administrative regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes or administrative regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

(6) The commission, at its discretion, may use the funds necessary to purchase liability insurance for members and executive officers of the commission, inspectors, and for members of the staff exempted from classified service of the state by KRS 18A.115.

(7) The commission shall require all actively-licensed agents, except for those agents who were licensed prior to June 19, 1976, to successfully complete mandatory continuing education as a condition of license renewal.[~~ The commission shall implement this provision by promulgating an administrative regulation. The classroom hours of mandatory continuing education shall be six (6) hours per year. Two (2) of the six (6) hours shall pertain to the study of real estate law.~~]

(8) The commission shall, by the promulgation of administrative regulations, develop a review process by which continuing education courses may be approved for credit. An applicant may seek the commission's approval for credit for courses not previously approved by the commission by submitting sufficient information describing the course to the commission for review.

Section 23. KRS 324.2811 is amended to read as follows:

A member shall be automatically removed from the commission and a vacancy shall be created if:

(1) A licensee of the commission ceases to be a broker or sales associate;

(2) A consumer member of the commission acquires a license or ***financial*** interest in the practice of real estate;

(3) A member enters a plea of guilty to, or has been found guilty of, a felony in which fraud is an essential element or to any crime involving moral turpitude and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal; or

(4) A member ceases to be a bona fide resident of this Commonwealth.

Section 24. KRS 324.282 is amended to read as follows:

The commission, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairperson[~~, and may do all things necessary and convenient for carrying into effect the provisions of this chapter~~]. The commission ***shall***[~~may from time to time~~] promulgate[~~ necessary~~] administrative regulations ***in accordance with KRS Chapter 13A and this chapter to effectively carry out and enforce the provisions of this chapter***, but the commission shall not promulgate any administrative regulation which in any way fixes prices***, establishes fees, or sets the rate at which licensees are compensated***[~~ or commissions~~].

Section 25. KRS 324.287 is amended to read as follows:

The commission shall ***set,*** charge***,*** and collect the following fees:

(1) Examination fee, not to exceed ***one hundred dollars ($100)***[~~seventy-five dollars ($75)~~].

(2) Broker's and sales associate's original license fee, not to exceed thirty dollars ($30).

(3) Broker's and sales associate's renewal fee, not to exceed thirty dollars ($30).

(4) Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

(5) Certification of status with the commission, ten dollars ($10).

(6) Request for any change, not to exceed ten dollars ($10).

(7) Recovery fund, not to exceed thirty dollars ($30).

(8) Broker's and associate's applicant license criminal record check fee, not to exceed thirty dollars ($30).

Section 26. KRS 324.288 is amended to read as follows:

No affiliation fee shall be charged in any year to a licensee. As used in this section, "affiliation ***fee***"~~[fee]~~ means any fee or compensation paid by a licensee, to any person, for the privilege of listing his license with a particular principal broker, in records submitted to the commission.

Section 27. KRS 324.310 is amended to read as follows:

(1) If any sales associate is discharged or terminates his association with the principal broker, it shall be the duty of the broker to immediately deliver or mail to the commission the sales associate's license with the release statement signed by the principal broker. The broker shall, at the time of mailing the sales associate's license to the commission, address a communication to the last known residence address of the sales associate, which shall advise the sales associate that his license has been delivered or mailed to the commission. A copy of the communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either directly or indirectly under authority of his license from and after the date of receipt of the license from the broker by the commission.

(2) A licensee may place his license in escrow with the commission provided that:

(a) The licensee does not engage in any real estate activity for others during the term of escrow of the license; and

(b) The licensee pays the annual license renewal fees for each year the license is in escrow.

(3) At the request of the licensee***,***~~[and]~~ upon the meeting of requirements applicable to active licensees ***and completion of all continuing education requirements***, a license placed in escrow shall be automatically converted to an active license upon payment of the established change fee.

Section 28. KRS 324.312 is amended to read as follows:

A principal broker shall return an associate's license to the commission upon request. A principal broker that fails to return a license to the commission upon request shall be in violation of ***subsection (4)(u) of*** KRS 324.160~~[(1)(r)]~~.

Section 29. KRS 324.360 is amended to read as follows:

(1) This section shall apply to sales and purchases involving ***single-family*** residential real estate ***dwellings*** if any person licensed under this chapter receives compensation.

(2) The commission shall promulgate an administrative regulation authorizing a "seller's disclosure of conditions form."

(3) The form shall provide for disclosure by the seller of the following:

(a) Basement condition and whether it leaks;

(b) Roof condition and whether it leaks;

(c) Source and condition of water supply;

(d) Source and condition of sewage service;

(e) Working condition of component systems; and

(f) Other matters the commission deems appropriate.

(4) ***The seller of the property shall complete and sign the form at the time he or she executes any listing agreement or similar agreement by which a licensee intends to market the property. A copy of the form shall be provided by the listing agent to any prospective buyer or a buyer's authorized representative upon request. A copy of the form shall be delivered by the listing agent to any prospective purchaser or his representative within seventy-two (72) hours of the listing agent's receipt of a written and signed offer to purchase. The listing agent shall solicit the signature of the buyer on a copy of the form which the listing agent shall retain in the principal broker's records. The signature shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the licensee shall record the buyer's refusal to sign on the form and retain a copy in his principal broker's records***~~[The form shall be completed and signed by the seller at the time of listing for sale or, for property not listed for sale, completed and signed by the seller within five (5) business days of any executory contract for sale of the residential real estate. The form shall not be required for residential purchases of new homes if a written warranty is offered, for a sale of real estate at auction, or for a court supervised foreclosure]~~.

(5) ***If the subject property is offered for sale by the property's owner without a listing agreement, any licensee involved in the transaction shall provide a blank form to the property's owner and shall request that the property's owner complete and sign the form. If the property's owner completes and signs the form, the licensee shall deliver the form to the buyer or potential buyer not later than one hundred twenty (120) hours after the creation of any executory contract for sale of the property. The licensee shall solicit the signature of the buyer on a copy of the form as delivered to the buyer or prospective buyer and shall retain the copy in his or her principal broker's records. The signature of the buyer or prospective buyer shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the licensee shall record the buyer's refusal to sign on the form and retain a copy in his or her principal broker's records***~~[An accurate copy of the completed form shall be retained by the licensed broker or sales associate who receives compensation in the transaction. An accurate copy shall be delivered to any prospective purchaser upon request and to any prospective purchaser making a signed written offer to purchase, without unreasonable delay.~~

~~Delivery shall be the responsibility of the broker or sales associate who anticipates being compensated in the transaction]~~.

(6) ***The original of the form shall be retained by the listing broker or by the broker of any licensee who presents an offer on a property not subject to a listing agreement.***

(7) The form shall not be required for residential purchases of new homes if a written warranty is offered, for a sale of real estate at an auction, or for a court supervised foreclosure.

(8) If the seller refuses to complete and sign the form, his refusal shall be communicated in writing by the broker or sales associate who ***is involved***~~[anticipates being compensated]~~ in the transaction to the purchaser or prospective purchaser, without unreasonable delay.

(9) It shall be a violation of this chapter for a licensee to complete any portion of the form unless the licensee is the owner of the property or has been requested by the owner to complete the form. The request shall be acknowledged in writing on the form and the licensee shall be held harmless for any representation that appears on the form.

Section 30. KRS 324.395 is amended to read as follows:

(1) All real estate licensees, except those whose licenses are in escrow in accordance with KRS 324.310(2), shall carry errors and omissions insurance to cover all activities contemplated under this chapter.

(2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.

(3) Any policy obtained by the commission shall be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

(4) Licensees shall have the option of obtaining errors and omissions insurance independently, if the coverage contained in the policy and the financial condition of the insurance company complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.

(6) Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty (30) days prior to the annual license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission by the annual license renewal date by each licensee who opts not to participate in the group insurance program administered by the commission.

(7) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group insurance program at a reasonable premium, not to exceed one hundred twenty-five dollars ($125), the insurance requirement mandated by this section shall be void during the applicable contract year.

~~[(8) The errors and omissions insurance mandated by this section shall become effective April 1, 1987.]~~

Section 31. KRS 324.400 is amended to read as follows:

(1) There is hereby created and established in the State Treasury the real estate education, research, and recovery fund.

(2) In addition to the license fees provided for in ***Section 25 of this Act***~~[KRS 324.070]~~, upon renewal of every broker's and sales associate's license, as well as any and all other types of licenses, if any, issued by the commission, as of June 30, 1972, and every regular annual renewal date thereafter, the commission shall charge each of the aforesaid licensees an amount not to exceed thirty dollars ($30) per year to be included in the real estate education, research, and recovery fund. Each and every original applicant for a license after July 1, 1972, shall likewise submit to the commission an additional fee of thirty dollars ($30) to be deposited in the real estate education, research, and recovery fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal period.

(3) In addition to the license fees provided for in ***Section 25 of this Act***~~[KRS 324.070]~~, the commission, based upon its own discretion as to need, may assess each licensee upon renewal an amount less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant must pay the original amount of thirty dollars ($30), but on renewal will be subjected to the same renewal amount as other licensees.

Section 32. KRS 324.420 is amended to read as follows:

(1) An aggrieved party ***may***~~[shall]~~ commence an ***administrative*** action which may result in collection from the recovery fund by first filing ***a complaint*** with the commission on a form prepared by the commission. ***The complaint shall constitute a prima facie case that a licensee is in violation of Section 17 of this Act and is subject to the same conditions set forth in Section 15 of this Act. If the complaint constitutes a prima facie case and the matter is not settled,*** the commission shall hold a hearing pursuant to the requirements set forth in the provisions of this chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact occurred. If a violation of fraud is so found, the commission shall determine if the violation resulted in damages to complainant and in what amount. If damages cannot be accurately determined, then the amount of damages shall be determined by a Circuit Court in the county where the violation took place. In the event the question of damages is referred to the Circuit Court, the decision of the commission will not be final and appealable until the question of damages is certifiable.

(2) Upon final order by the commission or upon certification to the commission by the Circuit Court on the issue of damages, and after the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order, the aggrieved party or parties shall be paid the amount or amounts by the commission from the recovery fund.

(3) The license of the licensee against whom the claim was made by the aggrieved party shall be suspended or may be permanently revoked until such time as the licensee has reimbursed the recovery fund in full for all amounts paid, plus interest at the rate of ten percent (10%) per annum.

(4) Any party aggrieved by a final order of the commission may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B.

(5) Upon the final order of the court, and after the commission has paid from the real estate education, research, and recovery fund any sum to the aggrieved party, the commission shall be subrogated to all of the rights of the aggrieved party to the extent of the payment. The aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission. After such assignment, the commission may challenge in bankruptcy court any attempt by a former licensee to discharge the debt, if proper notice is given. Any funds recovered by the commission shall be deposited in the real estate education, research, and recovery fund.

(6) No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund unless the action against the licensee is commenced within two (2) years from actual knowledge of the cause of action or from the time when circumstances should reasonably have put the aggrieved party on notice of the cause of action.

(7) For purposes of this section, an "aggrieved party" shall mean either:

(a) A member of the consumer public who stands in a direct relationship to the licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting, or otherwise securing an interest in real estate through a licensee ***and who believes that the licensee is in violation of the provisions of this chapter***; or

(b) ***A member of the consumer public***[~~One~~] who directly engages the services of a licensee for purposes of selling, leasing, renting, or otherwise dealing in ***his or her***[~~their~~] own property.

(8) If at any time the money on deposit in the real estate education, research and recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.

(9) Any funds in excess of the four hundred thousand dollar ($400,000) level which are not being currently used, may be invested and reinvested as set forth in subsection (2) of KRS 324.410.

Section 33. KRS 324.425 is amended to read as follows:

In case of death ***or other incapacity*** of a principal broker having a licensed sales associate or sales associates affiliated at the time of death ***or other incapacity***, the commission reserves the right in its discretion, based upon the merits of each case, to permit one (1) of the sales associates to complete and close the then existing business of the deceased ***or incapacitated*** broker for a temporary period not to exceed six (6) months.

Section 34. The following KRS sections are repealed:

324.070 License fees.

324.340 Power of cities to regulate brokers not affected.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 677** is as follows:

On page 8, line 15, by inserting after the word "or" and before the word "a":

"***one (1) year and six (6) months if the applicant has***"

Representative Haydon moved that the House refuse to concur in the Senate Committee Substitute to **HB 677**. Agreed.

Representative Haydon moved that the House refuse to concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 677**. Agreed.

HCR 44, with Senate Committee Substitute, Senate Floor Amendment, and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HCR 44** is as follows:

HCR 44, A CONCURRENT RESOLUTION relating to the establishment of a task force to complete a study to identify barriers to quality end-of-life care, best practices, and strategies to improve quality of care.

WHEREAS, the purpose of this concurrent resolution is to establish a task force to assess the quality of end-of-life health care for all Kentuckians relating to pain management, and to make recommendations on how to improve health care to ensure that patients experience a peaceful, natural, and, as much as possible, pain-free end-of-life experience, while preserving the sanctity of human life. Nothing in this concurrent resolution shall be construed to authorize a study or to support physician or other health care provider-assisted suicide, euthanasia, or any other measures which might result in a premature end to any human life; and

WHEREAS, the National Task Force on End-of-Life Care in Managed Care reported that end-of-life care has been an intractable problem across the United States and contributions from many sectors of the American society will be needed to improve access to comprehensive, high-quality care, to strengthen accountability, and to develop payment methods; and

WHEREAS, a group of researchers completed a four (4) year Study to Understand Prognoses and Preferences for Outcomes and Risks of Treatments (SUPPORT) in five (5) teaching hospitals in the United States to improve end-of-life decision making and reduce the frequency of a mechanically supported, painful, and prolonged process of dying. The researchers found shortcomings in the care for seriously ill hospitalized patients including pain management and physician knowledge of the patient's desires regarding resuscitation; and

WHEREAS, too many patients die in physical pain and discomfort, despite the technical capability to control most symptoms near the end of life; and

WHEREAS, physicians are often fearful of disciplinary actions for prescribing appropriate medications to promote comfort in patients who are dying; and

WHEREAS, consumers are unaware of their rights to make decisions about end of life care; and

WHEREAS, legal matters surrounding advance directives often complicate decision making for patients, families, and health care practitioners; and

WHEREAS, patients' and families' wishes are often ignored; and

WHEREAS, technologies are often imposed upon patients that merely prolong the dying process, while comfort and support are not provided; and

WHEREAS, patients and families have the right to a seamless health care system that provides access to holistic care which includes care for the mind, body, and soul through both technical methods and supportive care; and

WHEREAS, reimbursement for care should support access to both technical and supportive care; and

WHEREAS, the curriculum for health care providers is limited in the amount of content related to palliative or end of life care; and

WHEREAS, the opportunities for medical students, residents, and other health care providers to participate in guided palliative care experiences need to be expanded;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a twenty (20) member task force to complete a study to identify the barriers to quality end-of-life care and pain management, to identify strategies to improve access to quality end-of-life care that is based upon patients' and families' desires, to identify ways to strengthen accountability to determine whether quality care is being delivered, and to identify payment methods for delivering a seamless system of care. The Speaker of the House shall appoint two (2) members of the House of Representatives, and eight (8) at-large members to the task force. The President of the Senate shall appoint two (2) members of the Senate and eight (8) at-large members to the task force. A majority of the membership shall choose a chair to preside over the work of the task force. Of the sixteen (16) at-large members of the task force to be appointed by the Speaker of the House and the President of the Senate, at least one (1) member shall be appointed from a list of names submitted by Kentucky Right to Life, at least one (1) member shall be appointed from a list of names submitted by the Kentucky Catholic Conference, and at least one (1) member shall be appointed from a list of names submitted by the Family Foundation of Kentucky. The remaining at-large members of the task force shall include representatives from the following associations: the Kentucky Nurses Association, the Kentucky Medical Association, the Kentucky Hospital Association, the Kentucky Pharmacists Association, the Kentucky Association of Hospices, the Department for Public Health, the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists, the Office of Aging Services, and the Kentucky Association of Health Care Facilities.

Section 2. The task force shall submit a final report of its findings and recommendations to the Legislative Research Commission no later than September 1, 2001.

Section 3. Staff services to be utilized in completing the work of the task force are estimated to cost $30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 5. Effective January 1, 2002, this concurrent resolution shall be void.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HCR 44** is as follows:

On page 1, after the fourth "WHEREAS", delete "too many" and insert "some" in lieu thereof.

On page 2, delete the third and fourth "WHEREAS" clauses in their entirety, beginning with "WHEREAS, patients" and ending with "provided; and"

The Senate Committee Amendment No. 1 Title to **HCR 44** is as follows:

By amending the title to read as follows: "A CONCURRENT RESOLUTION relating to the establishment of a task force to complete a study to identify barriers to quality end of life care relating to pain management, best practices, and strategies to improve quality of care.".

Representative Coleman moved that the House concur in the Senate Committee Substitute to **HCR 44**. Agreed.

Representative Coleman moved that the House concur in Senate Floor Amendment No. 2 to **HCR 44**. Agreed.

Representative Coleman moved that **HCR 44** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 81**, **Nays 10**. (See March 28, 2000 roll call on **HCR 44** - Appendix.)

HCR 44, by way of Committee Substitute as amended by the Senate, was passed.

Representative Coleman moved that the House concur in Senate Committee Amendment No. 1 Title to **HCR 44**. Agreed; and the title was agreed to.

Representative Coleman moved that the vote by which **HCR 44**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 354, with Senate Committee Substitute, Senate Committee Amendment, and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 354** is as follows:

HB 354, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.13-011 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary ***rating***~~[rate]~~ information" ***includes***~~[is]~~ any manual or plan of rates, classification, rating schedule, minimum premium, policy ***fees***~~[fee]~~, rating ***rules***~~[rule]~~, ***or***~~[and]~~ any other similar information needed to determine the applicable rate ***or premium. This shall include underwriting rules, but only to the extent necessary to determine the rate or premium that will be applicable to a risk should the insurer decide to provide coverage. This does not include guidelines that relate to the selection of those risks that are acceptable to an insurer***~~[in effect or to be in effect]~~.

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any ***other***~~[statistical]~~ data relied on by the filer, descriptions of methods used in making the rates, and any other~~[similar]~~ information required to be filed by the commissioner.

(4) "Personal risks" ***means homeowners, tenants, private passenger nonfleet automobiles, mobile homes, and other***~~[are those covered by]~~ property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established~~[on an ad hoc basis]~~ to provide insurance coverage for a~~[commercial]~~ risk pursuant to which two (2) or more insurers ***jointly***~~[separately]~~ contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any ***entity, including its affiliates or subsidiaries,***~~[organization]~~ which either has two (2) or more member insurers or is controlled ***either directly or indirectly*** by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer ***for purposes of this definition***.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to KRS 304.13-041 and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to KRS 304.13-041 that a reasonable degree of competition does not exist.

(12) "~~[Loss]~~Trending" is any~~[appropriate]~~ procedure for projecting developed losses to the average date of loss***, or premiums or exposures to the average date of writing,*** for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to~~[unallocated loss adjustment expenses,]~~ acquisition, field supervision, and collection expenses, general expenses, and ***premium*** taxes, licenses, and fees.~~[Expenses do not include those directly allocated by the insurer to the settlement of specific losses.]~~

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" ***means the loss cost per unit of exposure excluding all loss adjustment expenses***~~[is the loss cost per unit of exposure plus the loss adjustment expense directly allocated to the settlement of specific losses]~~.

(16) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in cost may be recognized.

(17) "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to their ultimate anticipated value.

(18) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(19) "Form provider" means a person who prepares, files, and distributes policy contract forms and endorsements and consults with members, subscribers, customers, or others relative to their use and application, but is not an advisory organization as defined in this subtitle.

(20) "Loss adjustment expenses" means the expenses incurred by the insurer in the course of settling claims.

(21) "Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses or output from simulation models and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective.

(22) "Rate" means the expected value of the future cost of insurance per exposure unit which accounts for the treatment of losses, expenses, and profit prior to any application of individual risk variations based on loss or expense considerations, but does not include minimum premium.

(23) "Special assessments" means guaranty fund assessments, residual market mechanism assessments, and other similar assessments which are included in ratemaking. Special assessments shall not be considered as either expenses or losses. Additional charges collected by the insurer and returned to a governmental agency on behalf of an insured are not special assessments. Examples of these additional charges include, but are not limited to, the Special Fund charge for workers' compensation imposed by KRS Chapter 342, local government premium tax imposed by KRS 91A.080, and the Revenue Cabinet surcharge imposed by KRS Chapter 136.

(24) "Statistical agent" means an entity that has been licensed by the commissioner to collect statistics from insurers and provide reports developed from these statistics to the commissioner for the purpose of fulfilling the statistical reporting obligations of those insurers under this chapter.

Section 2. KRS 304.13-021 is amended to read as follows:

KRS 304.13-011 to 304.13-161 apply to all types of insurance written on risks in this state by any insurer authorized under this chapter to do business in this state, except:

(1) Life insurance;

(2) Annuities;

(3) ***Wet***~~[Ocean]~~ marine ***and transportation*** insurance;

(4) Accident and health insurance;

(5) Reinsurance;

(6) Assessment or cooperative companies operating under the provisions of KRS Chapter 299;~~[and]~~

(7) Individual and group workers' compensation self-insurers***;***

(8) Title insurance; and

(9) Liability self-insurance groups.

Section 3. KRS 304.13-031 is amended to read as follows:

(1) In a noncompetitive market, rates shall be made in accordance with the following provisions:

(a) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated;

(b) Rates shall not be excessive, inadequate or unfairly discriminatory;

(c) Due consideration shall be given:

1. To past and prospective loss experience within and outside this state;
2. To the conflagration and catastrophe hazards;
3. To a reasonable margin for underwriting profit and contingencies;
4. To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;
5. To past and prospective expenses both ***countrywide***~~[countywide]~~ and those specially applicable to this state;
6. To all other relevant factors within and outside this state; and
7. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not less than the most recent three (3) year period for which such experience is available;

(d) The~~[systems of]~~ expense provisions included in the rates for use by any insurer or group of insurers ***shall***~~[may differ from those of other insurers or group of insurers to]~~ reflect the requirements of the operating methods of any such insurer or group ***and its anticipated expenses,*** with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(e) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks which ***can be demonstrated to***~~[may]~~ have a probable effect upon losses or expenses. Rates made in accordance with this section may be used subject to this subtitle.

Section 4. KRS 304.13-061 is amended to read as follows:

(1) The information furnished in support of a filing may include:

(a) The experience or judgment of the insurer;

(b) The insurer's interpretation of any statistical data it relies on;

(c) The experience of other insurers; and

(d) Any other relevant factors.

(2) The commissioner may adopt reasonable ***administrative regulations***~~[rules]~~ for use by insurers to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of KRS 304.13-011 to 304.13-161***, and the effectuation of its purposes. The commissioner may adopt reasonable administrative regulations to assure that the experience of all insurers is made available at least annually in such form and detail as is necessary to aid in determining whether rating systems comply with the standards set forth in this subtitle***. ~~[However, except for workers' compensation reports, no insurer shall be required to report its loss experience on a classification basis that is inconsistent with the rating system filed by it.]~~ The commissioner may designate one (1) or more advisory organizations ***or statistical agents*** to assist him in gathering, compiling, and reporting such information***, which shall be a matter of public record. The scope of these rules may include the data which must be reported by insurers, definitions of data elements, the timing and frequency of statistical reporting by insurers, data quality standards, data edit and audit requirements, data retention requirements, reports to be generated by advisory organizations or statistical agents to fulfill the requirements of this section, and the timing of such reports***.~~[Insurers shall record and report their workers' compensation experience on a classification basis consistent with that of an advisory~~

~~organization designated by the commissioner.~~]

(2) The commissioner may promulgate administrative regulations for the interchange of data necessary for the application of rating plans.

(3) In order to further uniform administration of rate regulatory laws, the commissioner and every insurer, advisory organization, and statistical agent may exchange information and experience data with insurance supervisory officials, insurers, and advisory organizations in other states and may consult with them with respect to the application of rating systems and the collection of statistical data.

Section 5. KRS 304.13-081 is amended to read as follows:

(1) All rates, supplementary rate information, and supporting information filed under KRS 304.13-011 to 304.13-161 shall be open to public inspection at any reasonable time. Copies may be obtained by any person on request and on payment of a charge specified in Subtitle 4 of this chapter.

(2) The commissioner shall *utilize,*[~~designate certain types of personal risks coverages for which the commissioner shall~~] develop*, or cause to be developed* a consumer information system that will *provide and* disseminate price and other relevant information on a readily available basis *to purchasers of homeowners or private passenger insurance. The commissioner may utilize, develop, or cause to be developed a consumer information system which will provide and disseminate price and other relevant information on a readily available basis to purchasers of insurance for commercial risks and personal risks not otherwise specified in this section. Such activity may be conducted internally within the department, in cooperation with other state insurance departments, through outside contractors, or in any other appropriate manner. To the extent the commissioner considers necessary and appropriate,*[~~,~~] insurers, advisory organizations, *statistical agents,* and other persons or organizations involved in conducting the business of insurance in this state*, to which this section applies,* shall cooperate with the commissioner in the development and *utilization*[~~in the operation~~] of a consumer information system. The reasonable cost of developing a consumer information system shall be assessed against insurers subject to this chapter on an equitable basis.

SECTION 6. KRS 304.13-091 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) No advisory organization, statistical agent, or form provider shall provide any otherwise permitted service, and no insurer shall utilize the services unless the organization has obtained a license pursuant to subsection (3) of this section.

(2) No advisory organization, statistical agent, or form provider shall refuse to supply any services for which it is licensed in Kentucky to any insurer authorized to do business in Kentucky and offering to pay the fair and usual compensation for the services.

(3) An advisory organization, statistical agent, or form provider applying for a license shall include with its application:

(a) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, bylaws, plan of operation, and any other rules or regulations governing the conduct of its business;

(b) A list of its members, subscribers, and customers;

(c) The name and address of one (1) or more residents of Kentucky upon whom notices, process affecting it, or orders of the commissioner may be served;

(d) A statement showing its technical qualifications for acting in the capacity for which it seeks a license;

(e) A biography of the ownership and management of the organization; and

(f) Any other relevant information and documents that the commissioner may require.

(4) Every organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. Any amendment to a document filed under this section shall be filed at least thirty (30) days before it becomes effective.

(5) If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of the law are met, he or she shall issue a license specifying the authorized activity of the applicant. The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in any market. At the request of the licensee, licenses issued under this section may be renewed on an annual basis.

(6) Licenses issued pursuant to this section shall remain in effect for one (1) year unless:

(a) The licensee fails to pay fees required by law for the continuance or renewal of its license;

(b) The licensee withdraws from the state; or

(c) The license is suspended or revoked.

The commissioner may at any time, after a hearing to be conducted in accordance with the provisions of this chapter and KRS 304.2-310, revoke or suspend the license of an advisory organization, statistical agent, or form provider which does not comply with the requirements and standards of this chapter.

(7) The commissioner shall by administrative regulation establish a written summary of information that shall be included in an application for licenses issued under this section.

(8) Advisory organizations wishing to operate as statistical agents or form providers may be so authorized under their license as an advisory organization. A separate license is not required.

(9) Each advisory organization, statistical agent, and form provider shall pay fees as required by KRS 304.4-010 for the application, continuance, or renewal of its license.

Section 7. KRS 304.13-111 is amended to read as follows:

No advisory organization ***or statistical agent*** shall:

(1) Make an agreement with an insurer or another advisory organization that has the purpose or effect of substantially lessening competition in an insurance market; ***or***

(2) After January 1, 1983, compile or distribute recommendations relating to rates that include profit or expenses, except loss adjustment expenses[~~; or~~

~~(3) File rates or other information on behalf of an insurer~~].

Section 8. KRS 304.13-121 is amended to read as follows:

Any[~~An~~] advisory organization ***in addition to other activities not prohibited, is authorized, on behalf of its members and subscribers, to***[~~may~~]:

(1) Collect statistical data from members***, subscribers,*** or any other source;

(2) Develop statistical plans including territorial and class definitions;

(3) ***Prepare, file, and distribute prospective loss costs which may include provisions for special assessments. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective***[~~Distribute pure premium data, adjusted for loss development and loss trending, in accordance with its statistical plans~~];

(4) ***Prepare, file, and*** distribute manuals of rating rules,[~~ and~~] rating schedules, ***and other supplementary rating information that do***[~~except that the manuals may~~] not include final rates***, expense provisions, profit provisions, or minimum premiums***[~~ or permit calculation of final rates without outside information~~];

(5) ***Prepare, file, and distribute factors, calculations, or formulas pertaining to classification, territory, increased limits, and other variables***[~~Distribute information by circulars that are filed with the commissioner and open to public inspection~~];

(6) ***Distribute information that is required or directed to be filed with the commissioner;***

(7) Conduct research and ***on-site***[~~field~~] inspections ***in order*** to prepare ***classifications of*** public fire ***defenses,***[~~defense classifications~~] and to consult with public officials regarding public fire protection as it would affect members***, subscribers*** and others;

(8)[~~(7)~~]Conduct research ***in order*** to ***discover,*** identify, and classify information ***relating to***[~~on the~~] causes or prevention of losses;

(9) Conduct research relating to the impact of statutory changes upon prospective loss costs and special assessments;

(10)[~~(8)~~] Prepare***, file, and distribute*** policy forms and endorsements and consult with members***, subscribers,*** and others ***relative to their***[~~on~~] use and application;

(11)[~~(9)~~] Conduct research and ***on-site***[~~field~~] inspections ***for the purpose of providing risk***[~~to collect~~] information[~~ for calculating rates or collecting statistics~~] relating to individual ***structures***[~~risks~~];[~~ and~~]

(12) Conduct on-site inspections to determine rating classifications for individual insureds;

(13) For workers' compensation insurance, establish a committee which may include insurance company representatives to review the determination of the rating classification for individual insureds and suggest modifications to the classification system, pursuant to subsection (1) of Section 11 of this Act;

(14)[~~(10)~~] ***Collect,*** compile, and ***publish***[~~distribute~~] past and current prices of ***individual*** insurers, if such information is ***also***[~~filed with the commissioner and is~~] made available to the public ***at a reasonable cost;***

(15) Collect and compile exposure and loss experience for the purpose of individual risk experience ratings;

(16) File final rates, at the direction of the commissioner, for residual market mechanisms; and

(17) Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

SECTION 9. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In addition to other activities not prohibited, any statistical agent is authorized, on behalf of its members and subscribers, to:

(1) Develop statistical plans including territorial and class definitions;

(2) Collect historical data from members, subscribers, or any other source;

(3) Distribute information that is required or directed to be filed with the commissioner;

(4) Collect, compile, and distribute past and current prices of individual insurers and publish such information;

(5) Collect and compile exposure and loss experience for the purpose of individual risk experience ratings; and

(6) Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

SECTION 10. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every advisory organization shall file with the commissioner every statistical plan, all prospective loss costs, provisions for special assessments, and all supplementary rating information, and every change or amendment or modification of any of the foregoing proposed for use in Kentucky. Each filing shall be filed thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days, if written notice is given within the initial thirty (30) day period to the advisory organization that additional time is needed for the consideration of the filing. The commissioner may, upon giving written notice to the advisory organization, request additional information that is needed to complete the review of the filing. If the commissioner requests such additional information prior to the filing becoming effective, the filing shall become effective thirty (30) days after the additional information is provided to the commissioner.

(2) Upon written application by the advisory organization, the commissioner may authorize an earlier effective date.

(3) All filings shall be subject to the provisions of Section 5 of this Act and all other provisions of this chapter relating to filings made by insurers.

SECTION 11. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the commissioner by an advisory organization designated by the commissioner.

(2) Every workers' compensation insurer shall report its experience in accordance with the statistical plans and other reporting requirements in use by an advisory organization designated by the commissioner.

(3) A workers' compensation insurer may develop subclassifications of the uniform classification system upon which rates may be made. These subclassifications and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(4) A workers' compensation insurer may develop rating plans which identify loss experience as a factor to be used. These rating plans and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(5) The commissioner shall disapprove subclassifications, rating plans, or other variations from manual rules filed by a workers' compensation insurer if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform classification system and experience rating system and in such a fashion so as to allow for the application of experience rating filed by the advisory organization.

SECTION 12. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person shall willfully withhold information which will affect the rates or premiums chargeable under this subtitle from, or knowingly give false or misleading information to, the commissioner, any statistical agent, any advisory organization, or any insurer.

Section 13. KRS 304.13-131 is amended to read as follows:

(1) No insurer *or advisory organization* shall make *any arrangement*[~~an agreement~~] with any other insurer, advisory organization, or *other* person that has the purpose or effect of unreasonably restraining trade or *unreasonably*[~~of substantially~~] lessening competition in *the business of*[~~an~~] insurance[~~ market~~].

(2) *No insurer or advisory organization shall:*

(a) Attempt to monopolize, or combine, or conspire with any other person to monopolize an insurance market; or

(b) Engage in a boycott, on a concerted basis, of an insurance market.

(3) No insurer shall agree with any other insurer or with an advisory organization to *mandate adherence*[~~adhere~~] to*, or to mandate use of,* any rate, *prospective loss cost,* rating plan, rating schedule, rating rule, *policy or bond form,* rate classification, rate territory, underwriting rule,[~~ or~~] survey, *inspection or similar material,* except as needed to *facilitate the reporting of statistics to advisory organizations, statistical agents, or the commissioner*[~~develop and maintain statistical plans permitted by KRS 304.13-011 to 304.13-161~~]. *The fact that two (2) or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently the same rates, prospective loss cost, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate territories, underwriting rules, surveys, or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.*

(4)[~~(3)~~]Two (2) or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to *any matters pertaining to* those activities authorized in this chapter as if they *constituted*[~~were~~] a single insurer.

Section 14. KRS 304.13-141 is amended to read as follows:

(1) The commissioner may examine any insurer, pool, advisory organization, ***statistical agent, form provider,*** or residual market or joint underwriting mechanism as deemed necessary to ascertain compliance with ***this chapter***[~~KRS 304.13-011 to 304.13-161~~]. Any examination made by the commissioner or by examiners designated by him shall be at the expense of the organization examined as specified in Subtitle 2 of KRS Chapter 304.

(2) Every insurer, pool, advisory organization, ***statistical agent,*** and residual market or joint underwriting mechanism shall maintain reasonable records, adapted to its method of operation, containing its experience or the experience of its members. Records shall include the statistics and other information used by it in its activities. The records shall be available at all reasonable times and at a reasonable location to enable the commissioner to determine whether the activities of an insurer, ***pool,*** advisory organization, ***statistical agent, residual market or joint underwriting mechanism***[~~or other association formed pursuant to KRS 304.13-011 to 304.13-161~~] are in compliance with this chapter.

(3) In lieu of an examination, the commissioner may accept the report of an examination by the insurance supervisory official of another state, if the report is made pursuant to the laws of that state.

Section 15. KRS 304.13-151 is amended to read as follows:

(1) Notwithstanding ***subsection (2)(a) of*** KRS 304.13-131, insurers participating in joint underwriting, ***joint reinsurance*** pools, or residual market mechanisms may, in connection with such activity, cooperate ***with each other*** in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss and expense statistics ***or***[~~ and~~] other information, ***or carrying on***[~~and the undertaking of~~] research. [~~A~~]Joint underwriting, ***joint reinsurance pools, and***[~~ pool or~~] residual market ***mechanisms***[~~mechanism~~] shall not be deemed[~~ an~~] advisory ***organizations***[~~organization~~].

(2) ***Except to the extent modified by this section, insurers, joint underwriting, joint reinsurance pool and residual market mechanism activities are subject to the provisions of this chapter.***

(3) ***Every***[~~A~~] pool shall file with the commissioner a copy of its constitution, bylaws, rules***, and regulations*** governing its activities, and articles of incorporation, agreement, or association. It shall also file with the commissioner a list of its members and the name and address of a resident of this state on whom notices or orders of the commissioner ***or process*** may be served***, and any changes in amendments or changes in the foregoing***.

(4)[~~(3)~~]Any ***residual market mechanism,*** plan, or agreement to implement a residual market mechanism***, and any changes or amendments in the plan*** shall be submitted ***in writing*** to the commissioner for ***consideration and*** approval***, together with any other information as may be reasonably required***. The commissioner shall approve only those agreements that ***he or she finds contemplates both***[~~contemplate~~] the use of rates ***which meet the standards of this chapter and activities and practices***[~~that are adequate but not excessive~~], that are not ***unfair, unreasonable, or*** [~~unfairly discriminatory, and that are~~] otherwise ***inconsistent with the provisions of this chapter***[~~consistent with KRS 304.13-011 to 304.13-161~~]. ***At any time after any agreements are in effect, the commissioner may review the practices and activities of the adherents to these agreements and if, after a hearing, the commissioner finds that any practice or activity is unfair or unreasonable, or is otherwise inconsistent with the provisions of this Chapter, the commissioner may issue a written order to the parties and either require the discontinuance of these acts or revoke approval of any such agreement.***

(5)[~~(4)~~]If the commissioner finds after a hearing that ***any***[~~an~~] activity ***or practice*** of an insurer participating in joint underwriting ***or***[~~,~~] a pool ***is unfair, is unreasonable***,[~~ or a residual market mechanism~~] will tend to[~~ substantially~~] lessen competition in ***any***[~~an insurance~~] market, or is otherwise inconsistent with the provisions ***or purposes*** of ***this chapter***[~~KRS 304.13-011 to 304.13-161~~], an order may be issued[~~ specifying in what respects the activity is anticompetitive or inconsistent with KRS 304.13-011 to 304.13-161 and~~] requiring the discontinuance of the activity ***or practice***.

(6)[~~(5)~~]As a condition of its authority under this chapter to transact casualty insurance (as defined in KRS 304.5-070) in this state, every insurer so authorized shall become and remain a signatory to the "Kentucky automobile insurance plan" as it is presently formulated or as it is hereafter amended with the approval of the commissioner. The "Kentucky automobile insurance plan" shall be deemed to be a mandated "residual market mechanism" as defined in KRS 304.13-011(8).

Section 16. KRS 304.13-350 is amended to read as follows:

The commissioner shall review, approve, and hear appeals on the assignment, reassignment, or modification of any fire protection classification of any fire protection district, municipality, or locality in the state which is made by any lawful ***insurer, advisory***[~~rating~~] organization, or agency operating in the Commonwealth.

Section 17. KRS 304.13-355 is amended to read as follows:

Any fire protection district, municipality, or locality in the state which is assigned a fire protection classification by any lawful ***advisory***[~~rating~~] organization or insurer which makes its own rates, operating in the Commonwealth, may appeal to the commissioner for modification or reassignment of the classification within thirty (30) days of receipt of the classification. The commissioner shall determine the manner in which an appeal may be filed.

Section 18. KRS 304.13-360 is amended to read as follows:

(1) The commissioner shall make such investigation as he deems necessary or convenient for proper determination regarding

an appeal.

(2) The books, accounts, papers and records of every fire protection classification ***advisory***~~[rating]~~ organization or insurer which makes its own rates, operating in the Commonwealth, shall be available to the commissioner for inspection and examination. By notice and order, the commissioner may require their production or the production of verified copies at such time and place as he designates, any expense incurred to be borne by the rating organization or insurer so ordered.

Section 19. KRS 304.13-365 is amended to read as follows:

(1) Within thirty (30) days of the filing of an appeal, the commissioner shall hold an administrative hearing to be conducted in accordance with KRS ***304.2-310***~~[Chapter 13B]~~. Whenever the commissioner determines that a fire protection classification is unreasonable, he shall by final order prescribe a reasonable classification to be followed for a period not to exceed one (1) year. A subsequent evaluation by the ***advisory***~~[rating]~~ organization or insurer shall not be permitted until the expiration of the period set by the commissioner.

(2) The commissioner may compel obedience to its final orders by proper proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, and these proceedings shall have priority over all pending cases.

Section 20. KRS 304.13-370 is amended to read as follows:

(1) No insurer may increase premiums for fire insurance based on a fire protection classification until the expiration of the thirty (30) day period for appeal by the fire protection district, municipality or locality, as provided in KRS 304.13-355. If an appeal is filed, no insurer may increase such premiums until approval of the fire protection classification by the commissioner.

(2) If the commissioner's reassignment or modification of a fire protection classification results in lower fire insurance premiums, the appropriate insurers shall make any refunds of paid premiums due to customers within the affected fire protection district, municipality or locality. Such refunds shall be determined from the date the ***advisory***~~[rating]~~ organization or insurer last assigned or reassigned the classification appealed.

Section 21. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to any rates filed under Subtitle 17A of this chapter, surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner.

(a) As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages ***(other than accident and health)*** the filing required by this subsection may be made by ***advisory***~~[rating]~~ organizations ***or form providers*** on behalf of ***their***~~[its]~~ members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(b) Every advisory organization and form provider shall file with the commissioner for approval every property and casualty policy form and endorsement before distribution to members, subscribers, customers, or others.

(c) Every property and casualty insurer shall file with the commissioner notice of adoption before use of any approved form filed by an advisory organization or form provider or filed by the insurer pursuant to paragraph (a) of this subsection.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

(6) For the purposes of this section, unless the context requires otherwise:

(a) "Advisory organization" has the meaning provided in Section 1 of this Act; and

(b) "Form provider" has the meaning provided in Section 1 of this Act.

SECTION 22. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used Sections 22 to 28 of this Act:

(1) "Rental vehicle agent" means an individual or business entity that is licensed to sell, solicit, or negotiate rental vehicle insurance under this subtitle.

(2) "Managing employee" means a salaried full-time employee of a licensed business entity that holds a license as an individual under Section 24 of this Act and is responsible for the supervision of the other employees engaged in the placement of insurance under this section.

(3) "Rental agreement" means any written agreement that states the terms and conditions that govern the use or lease of a rental vehicle during the rental period.

(4) "Rental period" means the term of the rental agreement that is sixty (60) days or less.

(5) "Rental vehicle" or "vehicle" means a motor vehicle operated by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is either a private motor vehicle or a cargo van. A "private motor vehicle" includes a passenger vehicle, passenger van, minivan, or sport utility vehicle. A "cargo van" includes a cargo van, pickup truck, or truck with a gross vehicle weight of less than twenty-six thousand (26,000) pounds.

(6) "Rental vehicle insurance" means insurance underwritten by an insurer authorized to transact business in this state that is sold in connection with and incidental to a rental agreement.

SECTION 23. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A rental vehicle agent may sell, solicit, or negotiate insurance at the rental vehicle company office as specified in this section for any of the following types of insurance:

(a) Insurance that covers the risks of travel, including accident and health insurance that provides coverage to renters and other rental vehicle occupants for accidental death or dismemberment and reimbursement for medical expenses that result from the operation or use of the rental vehicle during the rental period;

(b) Liability insurance that provides coverage to renters and other authorized drivers of rental vehicles for liability that arises from the operation or use of the rental vehicle, which may include uninsured motorist and underinsured motorist coverage, whether offered separately or in combination with other liability insurance;

(c) Personal property insurance that provides coverage to renters and other rental vehicle occupants for the loss of or damage to personal effects that occurs during the rental period;

(d) Roadside assistance;

(e) Emergency sickness protection programs; and

(f) Any other insurance incidental to the rental of a motor vehicle and approved by the commissioner.

(2) When a renter purchases any of the rental vehicle insurance coverages listed in subsection (1) of this section, the coverages shall be primary over any other coverages which may be available to the renter or authorized driver covering the same loss.

SECTION 24. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A license issued under this section shall permit rental vehicle insurance sales by the license holder provided the sales are conducted in accordance with the provisions of Section 25 of this Act.

(2) A business entity licensee shall register with the commissioner each separate business location where its employees sell, solicit, or negotiate insurance and may pay a location registration fee for each separate location.

(3) The commissioner may issue to an applicant qualified under this section a license to act as a rental vehicle agent.

(4) For a license to be issued under this section, the applicant shall submit to the commissioner all of the following:

(a) A written application, signed by the applicant, on a form prescribed by the commissioner, that contains the information prescribed by the commissioner;

(b) A certification by an insurer authorized to do business in this state, signed, and affirmed as true under penalty

of perjury by an officer stating that:

1. The insurer has satisfied itself that the named applicant is trustworthy and competent to act as the insurer's agent; and

2. The insurer has appointed the applicant to act as agent for the type of insurance specified;

(c) The application fee, appointment fee, and location registration fee as provided in KRS 304.4-010 and Sections 22 to 28 of this Act;

(d) A business entity applicant shall submit a list of physical locations where activities authorized by the rental vehicle agent license will be conducted;

(e) A business entity applicant shall certify that each proposed licensed managing employee has successfully completed education and training programs, successfully passed course examinations, and will receive continuing education all approved by the commissioner in accordance with Section 27 of this Act; and

(f) A business entity applicant shall submit proof that the applicant will provide education, training, and continuing education approved by the commissioner in accordance with Section 27 of this Act for each rental vehicle employee or representative. However, a test shall not be required for each rental vehicle employee or representative who is not a licensed managing employee.

(5) The commissioner may require any documents reasonably necessary to verify the information contained in the application submitted in accordance with subsection (4) of this section.

SECTION 25. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A license issued to a business entity under Section 24 of this Act shall authorize an employee or representative of the business entity licensee to sell, solicit, or negotiate rental vehicle insurance without being licensed, registered, or otherwise individually identified, if all of the following are true:

(a) The employee, representative, or managing employee operates with permission from the business entity licensee;

(b) The business entity licensee assumes responsibility for the insurance activities of its unlicensed employees or representatives;

(c) The employee or representative operates under the supervision of a managing employee who is licensed as a rental vehicle agent and who shall be available at all times for consultation for and adequate supervision of the business locations registered with the commissioner during the sale, solicitation, or negotiation of rental vehicle insurance. However, a managing employee need not be present at each business location registered with the commissioner;

(d) The business entity maintains an adequate number of managing employees available for consultation and supervision for the employees or representatives offering insurance products;

(e) The employee, representative, or managing employee has been instructed by the rental vehicle agent with respect to the consumer disclosures that are required under Section 26 of this Act prior to the sale of the rental vehicle insurance;

(f) The employee or representative is not primarily compensated based on the amount of insurance sold by the employee or representative; and

(g) The business location is registered with the commissioner.

(2) A licensee shall not advertise, represent, or otherwise hold out the licensee or any employee or representative of the licensee as a licensed insurance agent under another section of this subtitle, unless the entity or individual actually holds the applicable license.

SECTION 26. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurance shall not be transacted under Sections 22 to 28 of this Act at any location unless the following consumer protection disclosures are made in writing that meets the readability standards set forth in KRS 304.14-440 and the regulations promulgated thereunder prior to the sale of rental vehicle insurance and are included with the rental vehicle agreement:

(a) A clear and concise description of the material terms and conditions of the coverage, including a description of exclusions;

(b) A description of the process for filing a claim and a toll-free telephone number for reporting a claim;

(c) A statement that the coverage offered by the rental vehicle agent may be a duplication of coverage already provided by the renter's personal automobile insurance policy or by another source of coverage;

(d) A statement that the renter is not required to purchase any insurance from the rental vehicle company in order to rent a vehicle. However, the rental vehicle company may refuse to rent a vehicle to an uninsured driver;

(e) The name and address of the underwriting insurer;

(f) A separate itemization of all costs for the rental vehicle insurance;

(g) Confirmation that the insurer underwriting coverage is authorized to transact insurance in Kentucky; and

(h) A statement that the rental vehicle insurance is primary coverage as set forth in subsection (2) of Section 23 of this Act.

SECTION 27. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A rental vehicle agent who is licensed in accordance with this subtitle shall not sell, solicit, or negotiate insurance that is not sold in conjunction with a rental vehicle transaction.

SECTION 28. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If a licensee violates a provision of this chapter, the commissioner may take administrative action and impose penalties in accordance with this chapter.

(2) A licensed business entity under Section 24 of this Act shall provide to the commissioner its courses of instruction, course examinations for managing employees, employee training, and continuing education material for all employees subject to the commissioner's approval prior to issuance of a license under this section.

(3) A licensee under Section 24 of this Act may receive commissions or other compensation for services rendered in connection with the sale of rental vehicle insurance.

(4) Licenses shall be renewed biennially as set forth in KRS 304.9-260 and 304.9-270.

(5) The commissioner shall promulgate administrative regulations to carry out the purpose of Sections 22 to 28 of this Act.

The Senate Committee Amendment No. 1 to the Senate Committee Substitute to **HB 354** is as follows:

On page 22, after line 3, by adding:

"Section 22. KRS 304.2-150 is amended to read as follows:

(1) The commissioner shall carefully preserve in the department and in permanent form, a correct account of all his transactions and of all fees and moneys received by him by virtue of his office, together with all financial statements, examination reports, correspondence, filings, and documents duly received by the department. The commissioner shall hand the same over to his successor in office.

(2) The commissioner shall keep a suitable record of all insurer certificates of authority and of all licenses issued under this code, together with all applicable suspensions and revocations and of the causes thereof.

(3) Unless otherwise provided by law, records of the department shall be open to the extent provided by the Kentucky Open Records Act, KRS 61.872 to 61.884:

   (a) The following records shall be open:

      1. Rate and form filings and information filed in support thereof;

      2. Other records as provided by law; and

      3. All information filed by the department with the National Association of Insurance Commissioners, which that association makes available;

   (b) The following records shall be closed:

      1. All information received in confidence from *insurance supervisory officials of other states or countries, or* the National Association of Insurance Commissioners, including, but not limited to, information from the insurance regulatory information system. However, records described in this paragraph may be used by the commissioner in enforcement prosecutions and proceedings for disciplinary action, and may be disclosed to other law enforcement authorities; and

      2. Other records as provided by law; and

   (c) When inspection of department records is denied, any person challenging the denial shall follow the procedures set forth in the Kentucky Open Records Act, KRS 61.872 to 61.884.

(4) After five (5) years, the commissioner may destroy unneeded or obsolete records and filings in the department.

(5) The department shall not charge a fee inconsistent with fees charged by other state agencies for copies of records requested by the public pursuant to this section.

Section 23. The following KRS section is repealed:

304.24-410 Acquisition of insurer's securities -- Approval by commissioner -- Presumption of control.".

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 354** is as follows:

On page 24, line 25 after "*Section*" by deleting "*27*" and by inserting in lieu thereof "*28*"; and

On page 25, line 1 after "*Section*" by deleting "*27*" and by inserting in lieu thereof "*28*".

Representative Gooch moved that the House concur in the Senate Committee Substitute to **HB 354**. Agreed.

Representative Gooch moved that the House concur in Senate Committee Amendment No. 1 to the Senate Committee Substitute to **HB 354**. Agreed

Representative Gooch moved that the House concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 354**. Agreed.

Representative Gooch moved that **HB 354** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See March 28, 2000 roll call on **HB 354** - Appendix.)

HB 354, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 354**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 676, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

HB 676 was not in possession of the House.

SB 119, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 119** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 28 , 2000 roll call on **SB 119** - Appendix.)

SB 119 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 119** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 561, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 561** is as follows:

On page 1, by deleting lines 1 through 15 in their entirety; and

On page 1, line 16, by deleting "3" and inserting "1" in lieu thereof; and

On page 1, line 17, by bracketing and striking through "have authority to"; and

On page 1, line 18, after the word "Governor" by inserting, "***, the Kentucky Community and Technical College System,***"; and

On page 1, line 19, after the word "of" by inserting "***establishing***"; and

On page 1, line 20, by bracketing and striking through "Suggesting"; and

On page 1, line 24, by bracketing and striking through "Suggesting"; and

On page 1, line 25, by bracketing and striking through "Suggesting"; and

On page 2, line 14, by deleting all language on that line and inserting in lieu thereof "law, the ***commission*** [~~Department of Insurance~~] shall"; and; and

On page 2, line 17, by deleting "4" and inserting "2" in lieu thereof; and

On page 3, line 10, by deleting "5" and inserting "3" in lieu thereof; and

On page 3, after line 18, by inserting the following;

"Section 4. The following KRS sections are repealed:

17.260 Expenditure of allotted funds.

17.270 List of approved expenditures.".

Representative Baugh moved that the House concur in Senate Committee Amendment No. 1 to **HB 561**. Agreed.

Representative Baugh moved that **HB 561**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 28, 1998 roll call on **HB 561** - Appendix.)

HB 561, as amended by the Senate, was passed and the title agreed to.

Representative Baugh moved that the vote by which **HB 561**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 177, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 177** is as follows:

HB 177, AN ACT relating to the use of information technology in the delivery of health services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector. *These opportunities shall include, but not be limited to, the provision of telehealth by licensed health care providers as provided in KRS Chapters 205, 211, 304.17A, 310, 311, 312, 313, 314, 314A, 315, 319, 319A, 320, 327, 334A, and 335.*

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology. This seven (7) member board shall consist of the:

(a) Chancellor, or a designee, of the medical school at the University of Kentucky;

(b) Chancellor, or a designee, of the medical school at the University of Louisville;

(c) Commissioner, or a designee, of the Department for Public Health;

(d) Chief information officer, or a designee, of the Governor's Office for Technology; and

(e) Three (3) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in Section 3 of this Act. To ensure representation of both groups, no more than two (2) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.

(2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's

business.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;

(b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville;

(c) Establish protocols and standards to be followed by the training centers and rural sites; and

(d) Maintain the central link for the network with the Kentucky information highway.

(4) The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.

(5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.

(a) Data on utilization, performance, and quality of care;

(b) Quality assurance measures, including monitoring systems;

(c) The economic impact on and benefits to participating local communities; and

(d) Other matters related to telehealth at the discretion of the board.

(6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 3. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) *"Chiropractor" means a person authorized to practice chiropractic under KRS Chapter 312;*

(2) "Council" means the Advisory Council for Medical Assistance;

(3)[~~(2)~~]"Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(4)[~~(3)~~]*"Health professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky;*

(5) "Medical care" as used in this chapter means essential medical, surgical, *chiropractic,* dental, optometric, podiatric, *telehealth,* and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(6)[~~(4)~~]"Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(7)[~~(5)~~]"Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(8)[~~(6)~~]"Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(9) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health services or his designee;

(10)[~~(7)~~] "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(11)[~~(8)~~] "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(12)[~~(9)~~] "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(13)[~~(10)~~] "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the

prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(14)[~~(11)~~] "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(15) "Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that requires the use of advanced telecommunications technology, including, but not limited to:

(a) Compressed digital interactive video, audio, or data transmission;

(b) Clinical data transmission via computer imaging for teleradiology or telepathology; and

(c) Other technology that facilitates access to health care services or medical specialty expertise.

(16) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and

[~~(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;~~]

(17)[~~(13)~~] "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient[~~;~~

~~(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act~~].

SECTION 4. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in subsection (3)(b) of Section 2 of this Act.

(2) (a) The cabinet shall establish reimbursement rates for a telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.

(4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.

(5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.

(6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:

1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;

2. The quality of care as a result of telehealth consultations rendered under this section; and

3. Any other issues deemed relevant by the cabinet.

(b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.

(7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Department for Public Health may develop programs for local health departments to participate in telehealth and to seek reimbursement for services as provided for other health care providers under KRS Chapter 205 or 304.17A.

Section 6. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(5) "COBRA" means any of the following:

- (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
- (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
- (c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(7) "Eligible individual" means an individual:

- (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;
- (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
- (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
- (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
- (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

- (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
- (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program qualified individual" means an individual who:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the

insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(20) “Index rate” means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) “Individual market” means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(22) “Insurer” means any insurance company; health maintenance organization; self-insurer or multiple employer welfare

arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members;~~[and]~~

(35) "Standard benefit plan" means the plan identified in KRS 304.17A-250***; and***

(36) "Telehealth" has the meaning provided in Section 8 of this Act.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation if the consultation is provided through the telehealth network established under Section 2 of this Act. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.

(b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.

(2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.

(3) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.

(4) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

Section 8. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Health Services, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;

(18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and

(19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

(20) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education.

SECTION 9. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

(1) A treating physician who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of medical services and in the provision of continuing medical education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) A treating dietitian or nutritionist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of dietitian and nutrition services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 11. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

(1) A treating chiropractor who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of chiropractic services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A treating dentist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of dental services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 13. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

(1) A treating nurse who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of nursing services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 14. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

(1) A treating respiratory care practitioner who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of respiratory care services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 15. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) A treating pharmacist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of pharmacy services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical

data, and continuing education.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) A treating psychologist or psychological associate who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of psychological services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A treating occupational therapist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of occupational therapy services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 18. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

(1) A treating optometrist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of optometric services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 19. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

(1) A treating physical therapist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices,

and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of physical therapy and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 20. A NEW SECTION OF KRS 335.010 TO 335.160 IS CREATED TO READ AS FOLLOWS:

(1) A treating clinical social worker who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of clinical social work services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 21. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

(1) A treating marriage and family therapist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of marriage and family therapy services and in the provision of continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

(1) A treating speech-language pathologist or audiologist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of speech-language pathology or audiology services and in the provision of

continuing education.

(3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

Section 23. KRS 197.020 is amended to read as follows:

(1) The Department of Corrections shall:

(a) Formulate and prescribe all necessary regulations and bylaws for the government and discipline of the penitentiary, the rules for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their deportment and conduct;

(b) Prescribe the character of food and diet of the prisoners; rules for the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; and quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;

(c) Adopt, amend, and rescind, as the department deems necessary, administrative regulations governing the disposition of abandoned, lost, or confiscated property of prisoners; and

(d) Cause the administrative regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

(2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.

(3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 24. (1) The provisions of Sections 3 to 4 of this Act shall take effect on July 15, 2001, or upon approval of any federal waivers, whichever first occurs.

(2) The provisions of Sections 6 to 7 of this Act shall take effect on July 15, 2001, and shall apply to a health benefit plan that is delivered, issued, or renewed on or after that date.

Representative Nunn moved that the House concur in the Senate Committee Substitute to **HB 177**. Agreed.

Representative Nunn moved that **HB 177**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See March 28, 2000 roll call on **HB 177** - Appendix.)

HB 177, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 177**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 634, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 634** is as follows:

On page 23, after line 23 by adding

"*(4) A foreign insurer that becomes a domestic insurer in accordance with KRS 304.24-500 may hold as admitted assets investments that do not otherwise qualify under this subtitle if the investments were qualified as admitted assets in the insurer's former state of domicile immediately prior to the insurer's becoming a Kentucky domestic insurer, if the insurer has not acquired the investments for the purpose of circumventing any limitations contained in this subtitle and if the insurer complies with the provisions of Section 4 of this Act as to the investments.*";

On page 23, line 24 by deleting "*(4)*" and inserting in lieu thereof "*(5)*";

On page 23, line 25 by deleting "***subsection***" and by inserting in lieu thereof "***subsections***" and after "*(3)*" by inserting "***or** (4)*";

On page 24, line 1 by deleting "***subsection***" and inserting in lieu thereof "***subsections***" and after "*(3)*" by inserting "***or** (4)*";

On page 24, line 6 by deleting "***subsection***" and inserting "***subsections***" in lieu thereof, and after "*(3)*" by inserting "***or** (4)*";

On page 58, line 11 after "***casualty,***" by inserting "***title,***";

On page 61, line 21 after "*and*" by deleting "*KRS 304.3-330*" and by inserting in lieu thereof "*KRS 304.3-200*"; and

On page 89, between lines 23 and 24, by inserting:

"304.7-040 Authorization.";

On page 90, between lines 4 and 5, by inserting:

"304.7-120 Stock of subsidiaries -- Investment in foreign companies.";

On page 90, between lines 17 and 18, by inserting:

"304.7-260 Investments in foreign countries.

304.7-265 Bona fide hedging transactions."; and

On page 90, after line 21, by inserting:

"304.7-340 Prohibited investments.".

Representative Cave moved that the House concur in Senate Committee Amendment No. 1 to **HB 634**. Agreed.

Representative Cave moved that **HB 634**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 28, 1998 roll call on **HB 634** - Appendix.)

HB 634, as amended by the Senate, was passed and the title agreed to.

Representative Cave moved that the vote by which **HB 634**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 676, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 676** is as follows:

HB 676, AN ACT relating to the Kentucky Board of Nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

The board may require a criminal background investigation of an applicant for endorsement by means of a fingerprint check by the State Police and the Federal Bureau of Investigation.

SECTION 2. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

(1) The board may, on petition by an interested party, issue a declaratory ruling relating to the applicability to any person, property, or state of facts of a statute, administrative regulation, decision, order, or other written statement of law or policy within the jurisdiction of the board.

(2) A declaratory ruling shall be binding on the board and all parties to the proceedings on the statement of facts alleged.

(3) The board may not retroactively change a declaratory ruling, but nothing in this section shall prevent the board from prospectively changing a declaratory ruling.

(4) The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A on procedures for submission, consideration, and disposition of a petition for a declaratory ruling.

(5) A declaratory ruling of the board may be appealed to the Circuit Court of the county in which the board's offices are located within thirty (30) days of the date of the final ruling by the board.

SECTION 3. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall maintain a current mailing address with the board and immediately notify the board in writing of a change of mailing address. As a condition of holding a license from the board, a licensee is deemed to have consented to service of notices or orders of the board at the mailing address on file with the board, and any notice or order of the board mailed or delivered to the mailing address on file with the board constitutes valid service of the notice or order.

SECTION 4. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall immediately notify the board in writing if any professional or business license that is issued to the person by any agency of the Commonwealth or any other jurisdiction is surrendered or terminated under threat of disciplinary action or is refused, suspended, or revoked, or if renewal of continuance is denied.

SECTION 5. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall, within thirty (30) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction in this or any other jurisdiction. Upon learning of any failure to notify the board

under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.

Section 6. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" ***means***[~~shall mean~~] Kentucky Board of Nursing.

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.

(3) "Nurse" ***means***[~~shall mean~~] a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.

(5) "Registered nurse" ***means***[~~shall mean~~] one who is licensed under the provisions of this chapter to engage in registered nursing practice.

(6) "Registered nursing practice" ***means***[~~shall mean~~] the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm.

(b) The maintenance of health or prevention of illness of others.

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency;

2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications.

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.

(7) "Advanced registered nurse practitioner" ***means***[~~shall mean~~] one who is registered and designated to engage in advanced registered nursing practice including[~~, but not limited to,~~] the nurse anesthetist, nurse midwife, ***clinical nurse specialist,*** and nurse practitioner pursuant to KRS 314.042.

(8) "Advanced registered nursing practice" ***means***[~~shall mean~~] the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for ***and dispense*** nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.

(9) "Licensed practical nurse" ***means***[~~shall mean~~] one who is licensed under the provisions of this chapter to engage in

licensed practical nursing practice.

(10) "Licensed practical nursing practice" ***means***[~~shall mean~~] the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(d) Teaching, supervising, and delegating except as limited by the board.

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(11) "School of nursing" ***means***[~~shall mean~~] a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.

(12) "Continuing education" ***means***[~~shall mean~~] offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.

(13) "Nursing assistance" ***means***[~~shall mean~~] the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.

(14) "Sexual assault nurse examiner" ***means***[~~shall mean~~] a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(2).

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare.

(16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing.

(17) "Dispense" means to receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party.

Section 7. KRS 314.025 is amended to read as follows:

(1) There is hereby created the Kentucky nursing incentive scholarship fund.

(2) It is the intent of the General Assembly of the Commonwealth of Kentucky to address the nursing workforce needs throughout the Commonwealth; further it is the intent of the General Assembly to give preference for these scholarships to financially needy residents, registered nurses pursuing graduate nursing education, and licensed practical nurses of the Commonwealth. ***The fund also may issue grants for nursing workforce competency development.***

(3) It further is the intent of the General Assembly that an applicant who has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property may not be eligible for a Kentucky nursing incentive scholarship.

Section 8. KRS 314.031 is amended to read as follows:

(1) It shall be unlawful for any person to call or hold herself or himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed under the provisions of this chapter.

(2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of nursing unless the school of nursing has been approved under the provisions of this chapter.

(3) It shall be unlawful for any person knowingly to employ a nurse unless the nurse is licensed under the provisions of this chapter.

(4) It shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the board a nurse who:

(a) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing; or

(b) Is suspected of fraud or deceit in procuring or attempting to procure a license to practice nursing***;*** or

(c) Is suspected of negligently or willfully acting in a manner inconsistent with the practice of nursing; or *(d)* ***Is suspected*** of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety*;* or

(e) ***Is suspected*** of[~~ willfully or repeatedly~~] violating any provisions of this chapter; or

(f)[~~(c)~~] Has a license to practice as a nurse denied, limited, suspended, probated, [~~or ~~]revoked***, or otherwise disciplined*** in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated,[~~ or~~] revoked***, or otherwise disciplined*** in this Commonwealth; or

(g)[~~(d)~~]Is practicing nursing without a current active license or valid temporary work permit issued by the board***; or***

(h) Is suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others; or

(i) Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records.

Section 9. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath*:*[~~,~~]

(a) That the applicant[~~ has completed at least an approved four (4) year high school course of study or the equivalent thereof;~~] has completed the basic curriculum for preparing registered nurses in an approved school of nursing and ***has completed requirements for graduation***[~~holds a diploma~~] therefrom;

(b) Has fulfilled the requirements of KRS 214.615(1); and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) An applicant shall be required to pass an examination in any subjects as the board may ***determine***[~~prescribe. Each written examination may be supplemented by an oral or practical examination~~]. Application for licensure by examination shall be received by the board at such time as ***determined***[~~prescribed~~] by regulation by the board.

(3) Upon successfully completing all requirements for licensure, the board ***may***[~~shall~~] issue to the applicant a license to practice nursing as a registered nurse***, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state***.

(4) The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the examination prescribed by the board or its equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice ***as a registered nurse***[~~professional nursing~~] in this state.

(5) The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(6) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed ***in accordance with regulations promulgated by the board in accordance with KRS Chapter 13A***[~~at least biennially~~] and those persons granted inactive status shall not be governed by the continuing ***competency***[~~education~~] provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(8) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(9) A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 10. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active

registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or ***clinical nurse specialist***[~~any other designation as determined by the board~~].

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.

(7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."

(8) Before an advanced registered nurse practitioner engages in the prescribing ***or dispensing*** of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.

(9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 11. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:

(a)[~~ Has completed at least an approved four (4) year high school course of study or its equivalent;~~

~~(b)~~] Has fulfilled the requirements of KRS 214.615(1);

(b)[~~(c)~~]Has completed the required educational program in practical nursing at an approved school of nursing and ***has completed requirements for graduation***[~~holds a diploma or certificate~~] therefrom; and

(c)[~~(d)~~]Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(3) An applicant shall be required to pass an examination in any subjects the board may determine.[~~ Each written examination may be supplemented by an oral or practical examination.~~] Application for licensure by examination shall be received by the board at the time as ***determined***[~~prescribed~~] by regulation by the board.

(4) Upon successfully completing all requirements for licensure, the board ***may***[~~shall~~] issue to the applicant a license to practice as a licensed practical nurse ***if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state***.

(5) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the examination prescribed by the board or its equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(6) Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed ***in accordance with administrative regulations promulgated by the board in accordance with KRS Chapter 13A,***[~~at least biennially~~] and those persons granted inactive status shall not be governed by the continuing ***competency***[~~education~~] provisions contained

in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.

(8) Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(9) A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 12. KRS 314.061 is amended to read as follows:

(1) Every ***credential***~~[license]~~ issued by the board shall have the seal of the board affixed. A ***holder of a credential***~~[licensee]~~ shall~~[sign his license,]~~ retain it in his possession, and be prepared to exhibit ***it***~~[his license or board certification of licensure]~~ upon demand by an employer or anyone to whom the ***holder of the credential***~~[licensee]~~ offers nursing services, or any board or staff member of the Kentucky Board of Nursing.

(2) Failure or refusal to produce a license or certification thereof upon demand shall be prima facie evidence that no such license exists.

Section 13. KRS 314.073 is amended to read as follows:

(1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document~~[the completion of]~~ continuing ***competency during the immediate past***~~[education requirements not to exceed thirty (30) contact hours in a given]~~ licensure period as prescribed in regulations promulgated by the board.~~[A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.]~~

(2) ~~[Contact hours required to satisfy]~~The continuing ***competency***~~[education]~~ requirement shall be ***documented***~~[completed]~~ and reported ***as***~~[in accordance with board requirements]~~ set forth by ***the board in administrative regulations promulgated in accordance with KRS Chapter 13A***~~[regulation]~~.

(3) The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools, and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing ***competency***~~[education]~~ requirements.

(6) The continuing ***competency requirements***~~[education]~~ shall include the completion of the course described in KRS 214.610(1).

(7) In order to offset administrative costs incurred in the implementation of the mandatory continuing ***competency***~~[education]~~ requirements, the board may charge reasonable fees as established by regulation in accordance with the provisions of KRS Chapter 13A.

(8) The continuing ***competency***~~[education]~~ requirements shall include at least five (5) contact hours in pharmacology ***continuing education*** for any person registered as an advanced registered nurse practitioner.

Section 14. KRS 314.085 is amended to read as follows:

(1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental or physical examination by a physician or psychologist it designated. Upon the failure of the person to submit to a mental or physical examination, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 ***or deny the application*** until the person submits to the required examination.

(2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall be deemed to have given consent to submit to a mental or physical examination when so directed in writing by the board. The direction to submit to an examination shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or examination reports on the ground of privileged communication.

(3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall bear the cost of any mental or physical examination ordered by the board.

Section 15. KRS 314.091 is amended to read as follows:

(1) The board shall have power to ***reprimand,*** deny, limit, revoke, probate, or suspend any license ***or credential*** to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, ***credential***

holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

(b) Has been convicted of a misdemeanor or felony which involved ***fraud, deceit, a breach of trust, or physical harm or endangerment to others,*** acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing;

(c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

(d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

(f) Abuses use of controlled substances***, prescription medications, or alcohol;***~~[or]~~

(g) Has misused or misappropriated any drugs placed in the custody of the nurse for ***administration***~~[medication]~~, or ***for*** use of others;

(h)~~[(g)]~~ Has falsified or in a~~[repeatedly]~~ negligent manner made incorrect entries or failed to make essential entries on essential records;

(i)~~[(h)]~~ Has a license ***or credential*** to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;~~[or]~~

(j)~~[(i)]~~ Has~~[willfully or repeatedly]~~ violated any of the provisions of this chapter***;***~~[or]~~

(k) Has violated any lawful order or directive previously entered by the board***;***~~[, or]~~

(l) Has violated any administrative regulation promulgated by the board***; or***

(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(2) All hearings~~[for denial, limitation, probation, suspension, or revocation of the license of a registered or practical nurse]~~ shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license ***or credential*** may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license ***or credential*** may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 16. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing; the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for,

and paid the fee for licensure by examination or endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement or, in the case of applications for licensure by examination, for no longer than six (6) months from the first day of the month following completion of the program of nursing requirements, and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

(6) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.

(7) Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board[~~ or who has passed the commission on graduates of foreign nursing schools examination~~] may be issued a temporary work permit.

Section 17. KRS 314.111 is amended to read as follows:

(1) An institution desiring to conduct a school of nursing shall apply to the board and submit evidence that it is prepared to carry out the minimum approved basic curriculum in nursing and that it is prepared to fulfill other requirements of standards which are established by KRS 314.011 to 314.161 and KRS 314.991 and the administrative regulations promulgated by the board. No person shall operate a nursing education program or school of nursing without complying with the provisions of this section.

(2) A survey of the institution and its proposed education program shall be made by the executive director or an authorized employee of the board who shall submit a written report of the survey to the board. If in the opinion of the board the requirements for an approved nursing education program or school of nursing are met it shall approve the school.

(3) [~~Periodic surveys of all schools of nursing shall be made under the supervision of the board. Written reports of such surveys shall be submitted to the board. ~~]If the board determines that any approved school of nursing is not maintaining the standards required by the statutes and the administrative regulations of the board, notice thereof in writing specifying their deficiencies shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after an administrative hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 18. KRS 314.121 is amended to read as follows:

(1) The Governor shall appoint a Board of Nursing consisting of ***sixteen (16)***[~~fifteen (15)~~] members;

- (a) ***Nine (9)***[~~Eight (8)~~] members shall be registered nurses licensed to practice in the Commonwealth;
- (b) Three (3) members shall be practical nurses licensed to practice in the Commonwealth;
- (c) One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth;
- (d) One (1) member shall be engaged in practical nurse education who is a registered nurse licensed to practice in the Commonwealth; and
- (e) Two (2) members shall be citizens at large, who are not associated with or financially interested in the practice or business regulated.

(2) Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. The cycle for appointments and expiration of terms shall be as follows:

- (a) The first year of the four (4) year cycle, the terms for ***three (3)***[~~two (2)~~] registered nurses and one (1) licensed practical nurse shall expire;
- (b) The second year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) citizen at large shall expire;
- (c) The third year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and the one (1) member engaged in practical nurse education who is a registered nurse shall expire; and
- (d) The fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and one (1) citizen at large shall expire.

(3)
- (a) By March 1, the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1.
- (b) By March 1, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1.
- (c) By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Organization of

Nurse Executives, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1.

(d) By March 1, the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc., shall submit to the Governor two (2) names of qualified individuals for appointments as its R.N. representative to the board, from which the Governor shall make an appointment by July 1.

(e) By March 1 of the year in which the Kentucky Association of Health Care Facilities representative's term shall expire, the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1.

(f) Initially, the Governor shall appoint one (1) member to serve as the registered nurse who is engaged in practical nurse education to serve the term remaining according to the cycle specified in subsection (2) of this section. By August 1, 1996, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by September 1, 1996. Thereafter, by March 1 of the year in which the practical nurse educator's term expires, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by July 1.

(g) The Governor shall appoint two (2) members who shall be citizens at large, who are not associated with or financially interested in the practice or business regulated. The Governor shall make the appointments by July 1 of the year in which the citizen members' terms expire.

(4) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.

(5) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(6) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing, and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Five (5) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; ***one (1) shall be engaged in advanced registered nursing practice;*** and one (1) shall be in nursing administration.

(7) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state,~~[and]~~ have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment***, and be currently engaged in nursing practice***.

Section 19. KRS 314.131 is amended to read as follows:

(1) The board shall meet at least annually and shall elect from its members a president ***and any other officers that it deems necessary***~~[, a president-elect, and a secretary]~~. ***Nine members***~~[A majority]~~ of the board including one (1) officer shall constitute a quorum at any meeting. The board is authorized to promulgate administrative regulations not inconsistent with the law and subject to the provisions of KRS Chapter 13A, as may be necessary to enable it to carry into effect the provisions of this chapter.

(2) The board shall approve ***programs***~~[curricula and standards for schools]~~ of nursing ~~[and courses preparing persons for licensure]~~ and shall monitor ***compliance with*** standards for nurse competency under this chapter. It shall~~[provide for surveys of schools and courses at any time as may be necessary, approve schools and courses meeting the requirements of this chapter and of the board, evaluate and approve courses for affiliation, and]~~ examine, license, and renew the license of duly-qualified applicants; determine notice of place and time of licensure examinations; approve providers of continuing education; administer continuing education requirements; issue advisory opinions ***or declaratory rulings*** dealing with the practice of nursing; register and designate those persons qualified to engage in advanced nursing practice; and it shall conduct administrative hearings in accordance with KRS Chapter 13B upon charges calling for discipline of a licensee and cause the prosecution of all persons violating any provisions of this chapter. It shall keep a record of all its proceedings and make an annual report to the Governor.

(3) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a nurse licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a nurse is falsely accused.

(4) The board and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

(5) The board shall employ a qualified person to serve as executive director to the board, and shall fix the compensation and define the duties of the executive director. It may employ other persons as may be necessary to carry on the work of the

board.

(6) The executive director shall have at least the qualifications for board members, and a master's degree in nursing or equivalent and shall have had at least two (2) years of experience in nursing administration immediately preceding the time of appointment.

(7) Each member of the board shall receive, in addition to traveling, hotel, and other necessary expenses, one hundred ***fifty*** dollars ***($150)***[~~($100)~~] for each day the member is actually engaged in the discharge of official duties.

(8) The board may, in its discretion, purchase liability insurance for board and staff members against acts performed in good faith discharge of duties.

(9) The board may, by administrative regulation issued pursuant to the provisions of KRS Chapter 13A, determine which disciplinary action records may be expunged. Any records which are expunged shall be exempt from disclosure under the Kentucky Open Records Law, KRS 61.870 to 61.884. The board shall not report its disciplinary actions for any purpose other than statistical.

(10) The board may reimburse any person appointed by direction of the board to any committee, subcommittee, or task force created by the board for his or her travel and subsistence expenses as established through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

Section 20. KRS 314.181 is amended to read as follows:

(1) ***A registered nurse who is employed by an ambulance service shall complete training in determination of death and preservation of evidence as required by the board through the promulgation of administrative regulations in accordance with KRS Chapter 13A.***

(2) A registered nurse who is employed by an ambulance service shall determine whether or not a patient served by the ambulance service is dead. The registered nurse shall utilize the protocol specified by the board by administrative regulations. The registered nurse shall, when responding to a patient, first attempt resuscitation, unless the protocol indicates that the patient is not capable of being resuscitated[~~When it appears that a person whom a registered nurse who has successfully completed training in determination of death has been called to attend is dead, the registered nurse shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the registered nurse or a paramedic or an emergency medical technician who has responded with or after the registered nurse, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the nurse may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead~~].

(3) If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the registered nurse ***who is employed by an ambulance service*** may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.

(4)[~~(2)~~]In the event that a registered nurse ***who is employed by an ambulance service*** determines that a person is dead, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

(5)[~~(3) Any registered nursing course taught in pre-licensure programs after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Nursing by administrative regulation.~~

~~(4) Any registered nurse within the two (2) years following July 15, 1998, shall successfully complete in-service training required by the Board of Nursing by administrative regulation relating to determination of death and preservation of evidence.~~

~~(5) Any registered nurse from another jurisdiction desiring to become a registered nurse in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section.~~

~~(6)~~] The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person***,*** prior to the arrival of the registered nurse ***who is employed by an ambulance service,*** by any person[~~, for the purposes of this section and KRS 446.400,~~] shall not be considered as artificial maintenance of respiration and circulation ***for the purposes of this section and KRS 446.400***. The administration of advanced cardiac life support procedures by any person, other than a paramedic rendering care pursuant to KRS 311.660, prior to the arrival of the registered nurse shall preclude the determination of death by the registered nurse, and the provisions of KRS 446.400 shall apply.[~~ However,~~] Nothing in this section shall preclude the supervising physician from directing the registered nurse ***who is employed by an ambulance service*** to cease resuscitative efforts under approved agency medical protocols.

(6)[~~(7)~~]The resuscitative efforts of a nurse under protocols authorized by this section shall not invoke the provisions of KRS 446.400.

SECTION 21. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Jurisdiction, both as to person and subject matter, under KRS 314.011 to 314.161 vests with the board upon application for

licensure and shall continue during periods of licensure and lapse of licensure. The jurisdiction of the board shall be continuous over the individual applicant or licensee and shall not be divested by voluntary surrender of a license or withdrawal of an application.

Section 22. KRS 315.040 is amended to read as follows:

(1) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale of nonprescription drugs in their original packages by any retailer. No rule or regulation shall be adopted by the Board of Pharmacy under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist.

(2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent the physician from keeping any drug or medicine that he or she may need in his or her practice, from compounding the physician's own medications, or from dispensing or supplying to patients any article that seems proper to the physician.

(3) Nothing in this chapter shall be construed to interfere with the activities of a midlevel health care practitioner as provided in KRS 216.925.

(4) Nothing in this chapter pertaining to the use of collaborative care agreements shall apply in any hospital or other health facility operated by a hospital without the express written permission of the hospital's governing body. Collaborative care agreements may be restricted by the policies and procedures of the facility.

(5) Nothing in this chapter shall interfere with the activities of a physician assistant as authorized in KRS Chapter 311.

(6) Nothing in this chapter shall interfere with the activities of an advanced registered nurse practitioner as authorized in KRS Chapter 314.

Section 23. The following KRS section is repealed:

314.074 In-service training for nurses on child sexual abuse.

Section 24. To provide for the initial appointment of the advanced registered nurse practitioner member to the Board of Nursing under Section 18 of this Act, the Kentucky Nurses Association shall submit two (2) names to the Governor by August 1, 2000, and the Governor shall make the appointment no later than August 15, 2000. The initial term of this member shall be for a period of four (4) years.

The Senate Committee Amendment No. 1 Title to **HB 676** is as follows:

By amending the title to read as follows:

"AN ACT relating to nursing."

Representative Marzian moved that the House concur in the Senate Committee Substitute to **HB 676**. Agreed.

Representative Marzian moved that **HB 676** by way of Senate Committee Substitute be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 28, 2000 roll call on **HB 676** - Appendix.)

HB 676, by way of Committee Substitute, was passed.

Representative Marzian moved that the House concur in Senate Committee Amendment No. 1 Title to **HB 676**. Agreed; and the title was agreed to.

Representative Marzian moved that the vote by which **HB 676**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 911, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 911** is as follows:

On page 3, after line 25, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) No person shall sell or deliver nontaxable diesel fuel or diesel fuel contaminated with dye when the person knows or has reason to know that the fuel will be used in a motor vehicle on any public highway.

(2) No person shall introduce nontaxable diesel fuel or diesel fuel contaminated with dye into the supply tank of any motor vehicle licensed for highway use.

(3) No person shall use nontaxable diesel fuel contaminated with dye in any motor vehicle actually used on a public

highway.

(4) The prohibitions contained in this section shall not apply to:

- ***(a) Persons operating motor vehicles that have received fuel into the fuel tank outside this state in a jurisdiction that permits introduction of nontaxable diesel fuel into the fuel supply tank of highway vehicles; and***
- ***(b) Uses of nontaxable fuel on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by KRS Chapter 138.***

(5) The cabinet may assess a civil penalty as follows:

- ***(a) For first offenses, one thousand dollars ($1,000) or ten dollars ($10) per gallon of nontaxable fuel involved, whichever is greater, against any person who violates this section. The capacity of the fuel tank shall be assumed to be the amount of fuel involved, unless a lesser amount can be adequately verified by the violator; and***
- ***(b) For subsequent offenses, the penalty shall be the amount determined in paragraph (a) of this subsection, multiplied by the number of separate violations by the violator.***

Section 4. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

- (a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;
- (b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;
- (c) Distributing gasoline from bulk storage in this state;
- (d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arms length transactions;
- (e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or
- (f) Regularly exporting gasoline or special fuels;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, V.M. and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases***,*** ~~[and]~~ liquids***, and taxable diesel fuel*** capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel***, nontaxable diesel fuel exclusively used for nonhighway purposes in off-***

highway equipment and nonlicensed motor vehicles, or liquefied petroleum gas as defined in KRS 234.100;

(c) "Taxable diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Taxable diesel fuel does not include unblended kerosene No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;

(d) "Nontaxable diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service, and excludes fuel used in state or local government licensed vehicles;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle.".

Representative Haydon moved that the House concur in Senate Committee Amendment No. 1 to **HB 911**. Agreed.

Representative Haydon moved that **HB 911**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 28, 1998 roll call on **HB 911** - Appendix.)

HB 911, as amended by the Senate, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 911**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 808, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 808** is as follows:

HB 808, AN ACT relating to candidates for mayor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. ***A candidate for mayor shall be a resident of the city for not less than one (1) year prior to his or her election.*** His term of office shall begin on the first day of January following his election and shall be for four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the following provisions shall apply:

(a) The legislative body of the city shall fill the vacancy within thirty (30) days.

(b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself.

(c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself.

(d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.

(3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his successor.

(4) Each legislative body member shall be elected at-large by the voters of each city at a regular election. ***A candidate for a legislative body shall be a resident of the city for not less than one (1) year prior to his or her election.*** His term of office shall begin on the first day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

(6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. The resignation shall be effective at the next regular meeting of the city legislative body.

(8) Pursuant to KRS 118.305(7), if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the Governor, whichever is designated to make the appointment, shall immediately notify in writing

both the county clerk and the Secretary of State of the vacancy.

(9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the Circuit Court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected..

(10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.

Section 2. This Act takes effect January 1, 2001.

The Senate Committee Amendment No. 1 Title to **HB 808** is as follows:

By amending the title to read as follows: "AN ACT relating to candidates for city elections."

Representative Fischer moved that the House concur in the Senate Committee Substitute to **HB 808**. Agreed.

Representative Fischer moved that **HB 808**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0.** (See March 28, 2000 roll call on **HB 808** - Appendix.)

HB 808, by way of Senate Committee Substitute, was passed.

Representative Fischer moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 808**. Agreed; and the title was agreed to.

Representative Fischer moved that the vote by which **HB 808**, by way of Senate Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

HR 190, by Representative Draud: A RESOLUTION adjourning the House of Representatives in honor of C.M. Newton upon the occasion of his imminent retirement as athletics director of the University of Kentucky.

HR 191, by Representative Riner: A RESOLUTION commending those churches and religions organizations that pray and fast for the leaders of the Commonwealth and the Nation.

Representative Upchurch moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Upchurch moved the adoption of the following **HR 171**:

HR 171, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James A. "Jim" Hill.

WHEREAS, with deepest respect and admiration, we pay homage and tribute to James A. "Jim" Hill, and we pause in silent reverence for his soul.

WHEREAS, James A. "Jim" Hill was born on June 8, 1941, a native of Wayne County, Kentucky, and he traversed these earthly bounds on April 12, 1999; and

WHEREAS, James A. "Jim" Hill was the loving son of the late Alford Hill and the late Ora Bell Hill; he was the devoted husband of nineteen years of Mary Brumley Hill; he was the loving father of a son, James Lynn Hill; and the loving brother of three sisters, Joan Vaughn of McCreary County, and Phyllis Burke and Linda Branscum of Franklin, Indiana; and he was the proud grandfather of two grandchildren; and

WHEREAS, James A. "Jim" Hill served his constituents with pride as Sheriff of Wayne County from 1977 to 1981, and from 1985 until the time of his passing; he was a friend to many, and he was fondly compared to the legendary "Walking Tall" Sheriff Buford T. Pusser because of his narrow escapes from death and his law enforcement abilities; and after surviving several shooting attempts on his life in which he gained notoriety, he was among a few sheriffs in the nation to be honored in Carbo's Police Museum in Pigeon Forge, Tennessee, where the uniform he was wearing at the time of one of the attempts on his life, as well as his Sheriff's badge, his photograph and several articles in local and state newspapers about the event were inducted into the Police Museum in 1981; and in 1980, he was included in "Who's Who in American Law Enforcement," which was published by the National Association of Chiefs of Police; and

WHEREAS, James A. "Jim" Hill will be remembered as an active and involved citizen, and a highly esteemed member of the Wayne County community, where he was a devout member of Mount Zion Baptist Church; he served his country with distinction in the United States Army; he was a member of Monticello Masonic Lodge #431, the Kentucky Sheriff's Association, the National Sheriff's Association, and he was a member of the Honorable Order of Kentucky Colonels; and

WHEREAS, the passing of James A. "Jim" Hill has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement and loss upon the passing of James A. "Jim" Hill, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James A. "Jim" Hill.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Mary Brumley Hill, 630 Albany Road, Monticello, Kentucky 42633.

There being no objection **HR 171** was adopted.

Representative Collins moved that the vote by which **SB 323** was defeated be reconsidered.

On the roll call the vote was: **Yeas 50, Nays 20**. (See March 28, 2000 roll call on the motion that the vote by which **SB 323** was defeated be reconsidered-Appendix.)

The motion that the vote by which **SB 323** was defeated be reconsidered was adopted.

Representative Allen moved the adoption of the following **Legislative Citation No. 148**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Georgia Mefford Parrish upon the auspicious occasion of her 110th Birthday. In celebration of this memorable event, the entire membership is delighted to join Representative Woody Allen in commending this remarkable woman whose life has spanned three centuries and is Kentucky's oldest, known, living citizen, for the vitality and spirit that has brought her thus far. Born in Scott County, Kentucky, on April 3, 1890, to William Jesse Mefford and Cordelia Wash Mefford, she was the beloved wife of the late Herman Ship Parrish and the devoted mother of six children. Residing in Peaks Mill, in Franklin County, Kentucky, "Miss Georgia" has been a faithful member of Peaks Mill Christian Church and credits her long life to her personal relationship with Jesus Christ. She devoted much time and talent ministering to the sick and less fortunate than herself and assisting local doctors in the delivery of numerous babies. As one who has seen many changes during her life, especially that of the "fancy, new, horseless carriage," Georgia Mefford Parrish is recognized as friends and family gather to celebrate her 110th birthday and is honored for her many and generous contributions to her family, the community and to this Commonwealth. Done in Frankfort, this twenty-eighth day of March, in the year two thousand.

Legislative Citation No. 148 was adopted without objection.

Representative D. Butler moved the adoption of the following **HR 124**:

HR 124, A RESOLUTION recognizing Kentucky Music Weekend as the premier Kentucky Folk Music Festival upon the occasion of its twenty-fifth anniversary in July, 2000.

WHEREAS, Kentucky Music Weekend has been performed continuously for twenty-five years at the Iroquois Amphitheater in Iroquois park located in Louisville, Kentucky, the last weekend in July; and

WHEREAS, Kentucky Music Weekend celebrates Kentucky's diverse musical heritage by showcasing Kentucky-born performers and Kentucky-style music and instruments, along with traditional dance and crafts; and

WHEREAS, Kentucky Music Weekend strives to present artists performing music that is uniquely Kentucky; and

WHEREAS, Kentucky Music Weekend has evolved into a statewide event by presenting Kentucky-style music and musicians throughout the Commonwealth at mini-weekends prior to the Louisville festival in July; and

WHEREAS, Kentucky Music Weekend has been a free event for the citizens of the Commonwealth for twenty-five years; and

WHEREAS, Kentucky Music Weekend has attained a national and international reputation that attracts audiences and performers locally, out-of-state and out-of-country; and

WHEREAS, Kentucky Music Weekend has been the opportunity for the public to see and listen to such legendary Kentucky artists as Jean Ritchie, John Jacob Niles, Asa Martin and Lily May Ledford;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is proud to recognize Kentucky Music Weekend as Kentucky's premier Folk Music Festival, occurring the last full weekend in July.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Nancy Johnson Barker, Iroquois Amphitheater Association, P. O. Box 21057, Louisville, Kentucky 40221.

There being no objection **HR 124** was adopted.

Representative Stumbo moved that no further business be conducted on this day except for Conference Committee Reports, Free Conference Committee Reports, appointment of members to Conference Committees and Free Conference Committees, and adoption of the Conference Committee Reports and Free Conference Committee Reports. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 12:00 p.m., March 29, 2000. Agreed.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Committees meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (Continued)

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 360, HB 438, HB 643, HB 118, HB 136, HB 161, HB 244, HB 310, HB 405, HB 462, SB 170, HR 170, HR 169, HR 166,** and **HB 792**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 136**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on the motion to refuse to concur on **HB 992**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **SB 49**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 77**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **SB 49**. Agreed.

Representative Palmer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palmer moved that he be recorded as voting "yea" on **HB 643**. Agreed.

Representative Palmer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palmer moved that his vote be changed from "yea" to "nay" on **HB 161**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "nay" on **HB 103**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **HCR 44**. Agreed.

Representative Westrom moved that House Floor Amendment No. 3 and House Floor Amendment No. 4 Title to **SB 195** be withdrawn. Agreed.

Representative Westrom moved that **HB 67** be withdrawn. Agreed.

Representative Westrom moved that House Floor Amendment No. 1 and House Floor Amendment No. 2 to **SB 212** be withdrawn. Agreed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 8**: Representatives Collins, Chairman; Scott; Colter and Childers.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 16**: Representatives J. Adams, Chairman; D. D. Butler; Hoffman and A. Arnold.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 100**: Representatives Cherry, Chairman; Collins; Riggs and Ausmus.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 275**: Representatives J. Adams, Chairman; Vincent; Webb; and Hoffman.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 330**: Representatives Wayne, Chairman; Vincent; P. Clark and Jenkins.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 502**: Representatives Richards; L. Clark; Stumbo; Callahan; Barrows; Moberly; Ford; Draud; Napier and Siler.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 576**: Representatives Richards; L. Clark; Stumbo; Callahan; Barrows; Moberly; Ford; Draud; Napier and Siler.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 577**: Representatives Richards; L. Clark; Stumbo; Callahan; Barrows; Moberly; Ford; Draud; Napier and Siler.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 992**: Representatives Jenkins; Branham; Yonts; J. Turner and Heleringer.

Recess (Continued)

Representative Stumbo moved that the House recess until 10:00 p.m.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message (Continued)

Announcing passage of **HB 181, HB 278, HB 533, HB 824,** and **HB 865**. (Time: 10:10 p.m.)

Message in regard to **HB 287**: The Senate has refused to recede from its Senate Committee Amendment No. 1 and Senate Committee Amendment No. 2 Title to **HB 287** and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 517**: The Senate has refused to recede from its Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 Title to **HB 517** and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 576**: The Senate has refused to recede from its Senate Committee Substitute to **HB 576** and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 577**: The Senate has refused to recede from its Senate Committee Substitute to **HB 577** and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 629**: The Senate has refused to recede from its Senate Committee Substitute and Senate Committee Amendment No. 1 Title to **HB 629** and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 992**: The Senate has refused to recede from its Senate Committee Substitute to **HB 992** and is respectfully asking for a Conference Committee to be appointed.

Message in regard to **HB 202**: The Senate has passed **HB 202** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 583**: The Senate has passed **HB 583** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 645**: The Senate has passed **HB 645** by way of Senate Committee Substitute and Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 919**: The Senate has passed **HB 919** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Report of Committees (Continued)

A Conference Committee Report was filed on **HB 992**.

A Free Conference Committee Report was filed on **HB 330**.

A Free Conference Committee Report was filed on **HB 16**.

A Free Conference Committee Report was filed on **HB 275**.

A Conference Committee Report was filed on **HB 517**.

Representative Stumbo moved to adopt all of Conference Committee Reports. Agreed.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 287**: Representatives A. Arnold, Chairman; Palmer; Riggs and Napier.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 486**: Representatives Gray, Chairman; Jenkins; Hoffman and J. Turner.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 517**: Representatives Riggs, Chairman; Palmer; Gooch; J. Adams; Crimm; Bratcher; DeWeese; McKee and Crall.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 629**: Representatives Barrows and Hoover.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 992**: Representatives Jenkins; Branham; Yonts; J. Turner and Heleringer.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 5 to the House Committee Substitute to **SB 49**, by Representative Anderson:

On page 16, after line 20, by inserting the following:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "gray market cigarettes" means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale, and those foreign cigarettes that are not manufactured for sale in the United States and are eventually brought into the United States for sale.

(2) Because those who sell gray market cigarettes do not pay into the Master Settlement Agreement fund that is returned to the states under the Master Settlement Agreement, a supplemental tax is placed on gray market cigarettes, at the rate of fifteen cents ($0.15) per carton. The tax shall be paid to the Kentucky Revenue Cabinet and transferred to the tobacco settlement fund created in KRS 248.654".

Floor Amendment No. 3 to **SB 195**, by Representative Westrom:

On page 11, after line 15, by inserting the following:

"Section 15. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Health Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other

classes of medical care shall be recommended by the council to the secretary for health services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. ***For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:***

1. ***Phenylketonuria;***
2. ***Hyperphenylalaninemia;***
3. ***Tyrosinemia (types I, II, and III);***
4. ***Maple syrup urine disease;***
5. ***A-ketoacid dehydrogenase deficiency;***
6. ***Isovaleryl-CoA dehydrogenase deficiency;***
7. ***3-methylcrotonyl-CoA carboxylase deficiency;***
8. ***3-methylglutaconyl-CoA hydratase deficiency;***
9. ***3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);***
10. ***B-ketothiolase deficiency;***
11. ***Homocystinuria;***
12. ***Glutaric aciduria (types I and II);***
13. ***Lysinuric protein intolerance;***
14. ***Non-ketotic hyperglycinemia;***
15. ***Propionic acidemia,***
16. ***Gyrate atrophy;***
17. ***Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;***
18. ***Carbamoyl phosphate synthetase deficiency;***
19. ***Ornithine carbamoyl transferase deficiency;***
20. ***Citrullinemia;***
21. ***Arginosuccinic aciduria;***
22. ***Methylmalonic acidemia; and***
23. ***Argininemia***;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

(h) Services provided by health-care delivery networks as defined in KRS 216.900; and

(i) Services provided by midlevel health-care practitioners as defined in KRS 216.900.

(2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Health Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to

the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for Health Services may make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

Section 16. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ***ten***~~[nine]~~ dollars ***($10)***~~[($9)]~~ to be paid for a certified copy of a record of a birth, three dollars ($3) of which shall be used by the Cabinet for Health Services or the Cabinet for Families and Children for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children***, and one dollar ($1) of which shall be used by the Division of Maternal and Child Health to pay for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases listed in subsection (1)(c) of Section 15 of this Act, if:***

(a) The amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases listed in subsection (1)(c) of Section 15 of this Act and are administered under the direction of a physician; and

(b) The affected person's amino acid modified formula and foods are not covered under any public or private health benefit plan.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 17. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for Health Services. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for Health Services or his designee. The secretary of the Cabinet for Health Services shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

(3) The cabinet shall make available the names and addresses of health care providers, including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for an inborn error of metabolism, including, but not limited to, PKU.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan that provides coverage for a family or dependent shall provide coverage of a newly born child of the insured from the moment of birth.

(2) Coverage for a newly born child shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed inherited metabolic diseases.

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond that thirty-one (31) day period.

(4) (a) For purposes of this subsection:

1. "Amino acid modified preparation" means a product intended for the dietary treatment of an inherited metabolic disease listed in subsection (1)(c) of Section 15 of this Act under the direction of a physician; and

2. "Low-protein modified food" means a product formulated to have less than one (1) gram of protein per serving and intended for the dietary treatment of an inherited metabolic disease listed in subsection (1)(c) of Section 15 of this Act under the direction of a physician.

(b) A health benefit plan that provides prescription drug coverage shall provide that coverage for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases if the amino acid products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician. Coverage under this subsection may be subject, for each plan year, to a cap of four thousand dollars ($4,000) on both individual medical food prescription expenditures and medical formulas, subject to annual inflation adjustments.

(5) The requirements of this section shall apply to all health benefit plans delivered on and after the effective date of this Act.

(6) Nothing in this section or Section 15, 16, or 17 of this Act shall be construed to require a health benefit plan to provide coverage for an amino acid modified preparation or low-protein modified food for the treatment of lactose intolerance, protein intolerance, food allergy, food sensitivity, or any other condition or disease not listed in subsection (1)(c) of Section 15 of this Act.".

Floor Amendment No. 4 Title to **SB 195**, by Representative Westrom:

By amending the title to read as follows:

"AN ACT relating to health care.".

Floor Amendment No. 4 to **SB 223**, by Representative Bratcher:

On page 3, between lines 7 and 8, by inserting the following, and renumbering subsequent sections accordingly:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of the using of a firearm during the commission of a crime if he or she actively employs the use of a firearm during the commission or attempted commission of a felony.

(2) Using a firearm during the commission of a crime is a Class D felony for the first offense and a Class C felony for subsequent offenses.

(3) The provisions of this section shall not be construed as replacing or repealing any section of the Kentucky Revised Statutes but shall be construed as ancillary and supplemental thereto. A person may be convicted of a violation of this section and any other felony or misdemeanor.

(4) Any section of KRS Chapter 439 to the contrary notwithstanding, when a person has been convicted of a violation of this section or has entered a guilty plea or an Alford plea to a violation of this section, he or she shall serve the sentence provided in this section without benefit of parole.

Section 4. KRS 533.060 is amended to read as follows:

(1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony*, or Section 3 of this Act,* and the commission of the offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, the person shall not be eligible for probation, shock probation, or conditional discharge, except when the person establishes that the person against whom the weapon was used had previously or was then engaged in an act or acts of domestic violence and abuse

as defined in KRS 403.720 against either the person convicted or a family member as defined in KRS 403.720 of the person convicted. If the person convicted claims to be exempt from this statute because that person was the victim of domestic violence and abuse as defined in KRS 403.720, the trial judge shall conduct a hearing and make findings to determine the validity of the claim and applicability of this exemption. The findings of the court shall be noted in the final judgment.

(2) When a person has been convicted of a felony and is committed to a correctional detention facility and released on parole or has been released by the court on probation, shock probation, or conditional discharge, and is convicted or enters a plea of guilty to a felony committed while on parole, probation, shock probation, or conditional discharge, the person shall not be eligible for probation, shock probation, or conditional discharge and the period of confinement for that felony shall not run concurrently with any other sentence.

(3) When a person commits an offense while awaiting trial for another offense, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which the person is awaiting trial.

(4) Any section of KRS Chapter 439 to the contrary notwithstanding, when a person has been convicted of a violation of Section 3 of this Act or has entered a guilty plea or an Alford plea to a violation of Section 3 of this Act, he or she shall serve the sentence provided in Section 3 of this Act without benefit of parole."

Floor Amendment No. 4 to **SB 218**, by Representative Westrom:

On page 16, line 7, by inserting "***monthly***" after both "Combined" and "combined", and

On page 16, line 10, by placing an opening bracket before "The cost" and by striking through the remainder of the line following the bracket, and

On page 16, line 11, by placing a closing bracket after "2." and by striking through "2.", and

On page 16, line 15, by inserting "***2.***" before "3." and by bracketing and striking through "3.", and

On page 16, line 17, by inserting "***3.***" before "4." and by bracketing and striking through "4.", and

On page 16, between lines 22 and 23, by inserting the following:

"***(i) "Split custody arrangement" means a situation where each parent is the residential custodian for one (1) or more children for whom the parents share a joint legal responsibility.***", and

On page 16, line 24, after "their" by inserting "***combined monthly***", and

On page 16, line 24, after "adjusted" by inserting "***parental***", and

On page 17, line 4, after "(6)" by inserting the following:

"***The child support obligation in a split custody arrangement shall be calculated in the following manner:***

(a) Two (2) separate child support obligation worksheets shall be prepared, one (1) for each household, using the number of children born of the relationship in each separate household, rather than the total number of children born of the relationship.

(b) The nonresidential custodian with the greater monthly obligation amount shall pay the difference between the obligation amounts, as determined by the worksheets, to the other parent.

(7)", and

On page 32, between lines 11 and 12, by inserting the following:

"Section 18. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined ***monthly adjusted parental gross***[~~parental~~] income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their ***combined monthly*** adjusted ***parental*** gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) ***If health care insurance coverage is reasonable and available at the time the request for coverage is made, the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care insurance coverage for the child, in addition to the support ordered under the child support guidelines.***

(b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.

(c) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and
2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(d)[~~(b)~~]If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their ***combined monthly*** adjusted ***parental*** gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) The court order shall include the Social Security numbers of all parties subject to a support order.

(10) In any case administered by the Cabinet for Families and Children, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Families and Children may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Families and Children shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

(13) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or

assignment for the payment of current child support or owed or to-be-owed child support.

(14) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.", and

On page 32, line 12, by deleting the line its entirety and inserting in lieu thereof the following:

"Section 19. Sections 1 to 17 of this Act may be cited as the Kentucky's Kids Come First Act of 2000.".

Floor Amendment No. 7 to **SB 23**, by Representative Bather:

On page 3, after line 23, by inserting "SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 2 to 12 and Sections 13, 14, 15, 16, and 17 of this Act are intended to establish an efficient and predictable process, within the context of KRS 224.01-400 and 224.01-405, to promote voluntary cleanup and redevelopment of properties suspected of environmental contamination. This process will further the public purposes of protecting human health and the environment while stimulating economic development and job creation through the construction of new residential, commercial, and industrial facilities. Sections 2 to 12 and Sections 13, 14, 15, 16, and 17 of this Act shall not apply to radioactive material facilities licensed under KRS 211.842 to 211.852 and the administrative regulations promulgated pursuant thereto.

SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 12 of this Act:

(1) "Hazardous substance" shall have the meaning in KRS 224.01-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.01-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.01-400(2), and any hazardous substance included in KRS 224.01-400(3);

(2) "Petroleum" shall have the meaning set forth in KRS 224.60-115(15);

(3) "Petroleum storage tank" shall have the meaning set forth in KRS 224.60-115(16);

(4) "Property" means a tract of real property for which an application has been submitted under Section 4 of this Act;

(5) "Remediation" means the characterization of a release of a hazardous substance or petroleum, in accordance with KRS 224.01-400(18) for hazardous substances or KRS 224.01-405 for petroleum, and actions necessary to correct the effects of the release on the environment, as required by KRS 224.01-400 for hazardous substances, pollutants, or contaminants or KRS 224.01-405 for petroleum; and

(6) "Site" shall have the meaning in KRS 224.01-400(1)(c).

SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A Voluntary Environmental Remediation Program is established and shall be administered by the cabinet in accordance with Sections 2 to 12 of this Act.

(2) Any person may apply to enter a property in the program, unless:

(a) The property is part of or contains a site which is on the National Priorities List established by the United States Environmental Protection Agency;

(b) The property is part of or contains a hazardous waste treatment, storage, or disposal facility for which a permit has been issued, or the site is otherwise the subject of hazardous waste closure or corrective action;

(c) The property or site is the subject of state or federal environmental enforcement action relating to the release, for which the application is submitted;

(d) The property or site presents an environmental emergency, as defined in KRS 224.01-400; or

(e) The cabinet determines that the release for which participation is sought occurred subsequent to the effective date of this Act.

(3) To apply to enter the voluntary environmental remediation program, an applicant shall:

(a) Respond accurately and completely to all questions on an application provided by the cabinet;

(b) Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a characterization plan for the releases or threatened releases adequate to comply with KRS

224.01-400, KRS 224.01-405, Sections 2 to 12 of this Act, and any regulations promulgated pursuant thereto; and

(c) Submit a nonrefundable application fee. The fee shall be one thousand dollars ($1,000) for properties up to three (3) acres in size. The fee for properties greater than three (3) acres but less than ten (10) acres shall be two thousand five hundred dollars ($2,500). The fee for properties of ten (10) acres or larger shall be three thousand five hundred dollars ($3,500). However, a political subdivision of the state, and its agencies and instrumentalities, shall be exempt from paying the fee for properties that are publicly owned.

(4) Fees and costs collected under Sections 2 to 12 of this Act shall be deposited in the hazardous waste management fund set out in KRS 224.46-580(13). The cabinet shall use the fees and costs to administer the voluntary environmental remediation program.

(5) The cabinet shall, if requested, meet with the applicant either before or after submittal of an application to discuss the sufficiency of the application.

(6) The cabinet shall notify the Department for Public Health when the cabinet receives an application with information pertaining to an actual or threatened release of a hazardous substance over which the Department for Public Health has regulatory authority.

SECTION 5. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall notify an applicant for the voluntary environmental remediation program within forty-five (45) working days of receipt of the application as to whether the application is accepted or denied.

(2) The cabinet shall deny an application if:

(a) The cabinet determines the property is ineligible to participate in the program under the provisions of Sections 2 to 12 of this Act;

(b) The cabinet withdraws from agreed order negotiations pursuant to the provisions of Section 6 of this Act; or

(c) The application is not complete.

(3) If the cabinet denies an application, the cabinet shall notify the applicant in writing, stating the reasons for the denial. If the reason for denial is incompleteness, the cabinet shall inform the applicant of the information needed to make the application complete.

(4) The applicant may submit, within ninety (90) working days of receipt of the initial denial notice, a completed or revised application without incurring an additional fee.

(5) Within forty-five (45) working days of resubmittal, the cabinet shall review any revised or completed application and notify the applicant in writing of its determination to accept or deny the application. If the cabinet denies the application again for incompleteness, the cabinet shall again inform the applicant of the information needed to make the application complete. The cabinet may assess a new application fee for the resubmittal.

(6) If the applicant's second revised application fails to provide the information necessary to address all the concerns of the cabinet, the applicant and the cabinet may meet to clarify the cabinet's expectations and concerns.

SECTION 6. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Once an application is accepted, the applicant and the cabinet shall enter into an agreed order which shall set forth the mutual responsibilities of the parties with respect to the remediation project.

(2) A voluntary remediation agreed order shall include:

(a) The applicant's agreement to:

1. Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a characterization plan for the releases or threatened releases adequate to comply with KRS 224.01-400, KRS 224.01-405, Sections 2 to 12 of this Act, and any administrative regulations promulgated pursuant thereto;

2. Submit to the cabinet on the agreed schedule a characterization report and a corrective action plan complying with KRS 224.01-400, KRS 224.01-405, Sections 2 to 12 of this Act, and any administrative regulations promulgated pursuant thereto within one hundred twenty (120) days after the date the agreed order is entered by the secretary of the cabinet, or such longer period agreed upon by the parties; and

3. Submit to the cabinet a corrective action report by the date agreed upon by the parties. The corrective action report shall contain a certification by the applicant that the remediation has been completed in accordance with the approved corrective action plan;

(b) A general listing of the estimated costs the cabinet expects to incur for its review and oversight of the remediation;

(c) The applicant's agreement to reimburse the cabinet for all reasonable actual and necessary costs of review and oversight that exceed the program's application fee, along with a schedule of the applicant's payments to reimburse the cabinet for its costs. The cabinet may waive in whole or in part its right to be reimbursed its costs related to properties of less than three (3) acres if the cabinet determines the waiver will best serve the public interest, in which case the agreed order shall note the waiver determination;

(d) The applicant's agreement to complete remediation on the agreed schedule in compliance with the approved corrective action plan;

(e) A requirement that records related to the site's remediation be retained and provided to the cabinet on request;

(f) A provision that the applicant may withdraw from the agreed order prior to issuance of the covenant not to sue, and have no further obligations thereunder, subject to payment of the cabinet's costs incurred prior to the withdrawal and the cabinet's reservation of its rights; and

(g) Any other provisions the cabinet determines are necessary to protect human health, safety, and the environment, or to effectuate the purposes of Sections 2 to 12 of this Act.

(3) If the applicant and the cabinet are unable to negotiate an agreement in good faith within a reasonable time after negotiations have commenced, either party may withdraw from further negotiations.

SECTION 7. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon execution of an agreed order, the applicant shall submit to the cabinet within the agreed timeframe a site characterization report and a corrective action plan.

(2) The corrective action plan for properties involving hazardous substances over which the Department for Public Health has regulatory authority shall, at the time of submittal to the cabinet, also be submitted to the commissioner of the Department for Public Health.

(3) A corrective action plan shall comply with KRS 224.01-400, KRS 224.01-405, Sections 2 to 12 of this Act, and any administrative regulations promulgated under these statutes, and shall include:

(a) Detailed documentation of the characterization conducted by the applicant to determine the nature and extent of the release or threatened release as required under KRS 224.01-400 and 224.01-405 and a description of any remediation performed on the site;

(b) A description of any corrective action and additional characterization proposed to complete the remediation in accordance with KRS 224.01-400 and 224.01-405, together with a proposed schedule for implementation;

(c) Descriptions of sampling and analysis methods, techniques, and results, and quality assurance methods and controls used or proposed;

(d) A description of measures to protect human health and safety during the remediation;

(e) A plan of action to inform the public about the remediation and redevelopment of the property and to provide for meaningful public comment;

(f) Identification of any limitations on land use or activity proposed for the site;

(g) Identification of any petroleum storage tanks on the site and an outline of how the applicant intends to comply with Subchapter 60 of KRS Chapter 224 and 401 KAR Chapter 42; and

(h) A requirement to update the corrective action plan to characterize and remediate releases discovered or caused during characterization or corrective action.

SECTION 8. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) working days of receipt of a corrective action plan, the cabinet shall:

(a) Review and evaluate the characterization and the corrective action plan for compliance with the agreed order, KRS 224.01-400, KRS 224.01-405, Sections 2 to 12 of this Act, and any administrative regulations promulgated pursuant thereto, and if necessary, inspect the property and any relevant conditions in the area surrounding the property; and

(b) Approve or deny the corrective action plan.

(2) If the cabinet determines from the characterization that the site has a hazard ranking (Mitre Model Ranking) of more than fifteen (15) or has a completed pathway of exposure, the cabinet shall have one hundred twenty (120) working days to approve or deny the corrective action plan.

(3) The cabinet may request an applicant to submit additional or corrected information during the applicable evaluation period. If the cabinet makes a request, the applicant may:

(a) Comply with the request by notifying the cabinet in writing and submitting the additional or corrected information within thirty (30) days after receiving the cabinet's request. From the date of the request by the

cabinet until the additional or corrected information is submitted to the cabinet, the applicable evaluation period shall be suspended; or

(b) Request a final determination in accordance with KRS 224.01-400(22) within thirty (30) days after receiving the cabinet's request.

(4) If the cabinet approves a corrective action plan, the cabinet shall, in writing, notify the applicant and commenters.

(5) The cabinet shall deny a corrective action plan for failure to comply with KRS 224.01-400, KRS 224.01-405, Sections 2 to 12 of this Act, or any administrative regulations promulgated under these statutes. The cabinet may deny a corrective action plan for failure to respond to its request for information. If the cabinet denies a corrective action plan, it shall notify, in writing, the applicant and commenters, specifying the reasons for the denial. The cabinet shall also inform the applicant of the right to appeal the decision in accordance with KRS 224.10-420(2). Within thirty (30) days of receipt of the notice of denial, the applicant shall inform the cabinet if a revised corrective action plan or corrective action completion report will be submitted.

SECTION 9. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) On or before the date that an applicant submits a corrective action plan to the cabinet, the applicant shall:

(a) Notify local government units affected by the remediation of the provisions of the corrective action plan;

(b) Provide a copy of the corrective action plan to at least one (1) public library in any county affected by the remediation;

(c) Submit for publication in a newspaper of general circulation in the county or counties where the property is located, a notice requesting public comment on the corrective action plan, and submit to the cabinet a copy of the notice as published, within ten (10) days of its publication; and

(d) Post a sign on the property stating that the site is undergoing remediation and providing information on where and when the corrective action plan is available for public review and comment.

(2) A comment period of at least thirty (30) days shall follow publication of the notice. During the comment period, any person may submit written comments to the cabinet concerning the corrective action plan and may request a public hearing. The cabinet may hold a public hearing if the request is made.

(3) The cabinet may hold a public hearing in any geographical area affected by the remediation on the question of whether to approve or deny the corrective action plan.

(4) The cabinet shall consider all written comments and public testimony prior to taking any action.

SECTION 10. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon full performance of an approved corrective action plan, the applicant shall submit for the cabinet's review, by the deadline agreed upon by the parties, a corrective action completion report, and shall certify therein that the applicant has successfully completed remediation in compliance with the approved corrective action plan.

(2) The cabinet shall review the corrective action completion report in the same manner as it reviewed the corrective action plan.

(3) The cabinet may conduct its own investigation, including but not limited to its own characterization to verify that remediation has been completed in compliance with the approved corrective action plan. The reasonable actual and necessary costs of such verification shall be considered oversight costs reimbursable under Section 6(2)(c) of this Act. Any confirmatory sampling by the cabinet shall be completed within the deadline agreed by the parties.

(4) If the cabinet determines that no further remediation is required under the approved corrective action plan, and upon the applicant's payment of the cabinet's costs for review and oversight of the remediation, the cabinet shall issue the applicant a covenant not to sue.

(5) The covenant not to sue shall preclude the cabinet's prosecution of civil or administrative enforcement action against the applicant for civil liability, including injunctive relief, lien assertion, reimbursement of costs, or penalties for failure to perform remediation, arising pursuant to KRS 224.01-400, KRS 224.01-405, any administrative regulations promulgated under these statutes, KRS 224.99-010, or the federal Comprehensive Environmental Response Compensation and Liability Act with respect to the releases identified in the corrective action plan.

(6) The covenant not to sue shall be in recordable form, and shall be recorded by the applicant, along with all deed restrictions and institutional controls approved by the Cabinet, among the real estate records in the office of the county clerk where the property is located, within thirty (30) days of issuance by the cabinet. The covenant shall not be effective until it is recorded and a certified copy of the record instrument is delivered to the cabinet. The covenant shall not be effective with respect to any assignees, transferees, or successors until the requirements of the agreed order and the corrective action plan are incorporated as restrictions in the deed or other transfer instrument that is recorded and a certified copy of the record instrument is delivered to the cabinet.

(7) The covenant not to sue shall not apply to:

- *(a) Releases other than those expressly identified in the corrective action plan;*
- *(b) Claims based on the applicant's failure to comply with a requirement of Sections 2 to 12 of this Act, the agreed order, the approved corrective action plan, or the approved corrective action completion report, including any required land use restrictions and engineering or institutional controls;*
- *(c) Liability resulting from the applicant's exacerbation of the releases identified in the corrective action plan;*
- *(d) Criminal liability;*
- *(e) Petroleum storage tanks;*
- *(f) Claims or liability based on or resulting from misrepresentations or intentional omissions by the applicant;*
- *(g) Liability for any conditions at the site that were not known to the cabinet when the cabinet approved the corrective action plan or the corrective action completion report, provided those conditions prevent the remediation from being protective of human health, safety, and the environment;.*
- *(h) Claims based on charges in the development of scientific knowledge, as reflected in published peer-reviewed health or environmental standards, that indicate that the remediation is no longer protective of human health, safety, and the environment; and*
- *(i) Mistakes by the cabinet, its agents, or employees, in approving an application, corrective action plan, or corrective action report, or in issuing a covenant not to sue, which result in further action being necessary to protect human health, safety, and the environment.*

SECTION 11. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The following actions of the cabinet shall be considered final determinations under Sections 2 to 12 of this Act that may be appealed in accordance with KRS 224.10-420(2):

- *(1) Denial of an application to participate in the voluntary environmental remediation program;*
- *(2) Cabinet withdrawal from negotiations with an applicant for an agreed order;*
- *(3) Denial or approval of a corrective action plan; and*
- *(4) Issuance or denial of a covenant not to sue.*

SECTION 12. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The numerical values contained in the document titled "Region 9 Preliminary Remediation Goals," published by the United States Environmental Protection Agency's Region 9, are hereby established as screening levels and shall be used by the cabinet in conformance with the guidance set out in the Region 9 Preliminary Remediation Goals. It is not the intent of this section to establish these levels as the cleanup standards for individual contaminants that may be present at any site.

SECTION 13. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 2 to 12 of this Act shall be considered approved costs for the purposes of KRS 154.26-010 to 154.26-100.

SECTION 14. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Costs incurred by an applicant in remediating a property in accordance with Sections 2 to 12 of this Act shall be considered approved costs for the purposes of KRS 154.28-010 to 154.28-100.

SECTION 15. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

Remediation of a property owned by a governmental agency in accordance with Sections 2 to 12 of this Act shall qualify as an infrastructure project for the purposes of this chapter.

SECTION 16. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- *(1) The Kentucky Economic Development Finance Authority shall review the economic development financing mechanism known as "tax increment financing." The review shall determine the appropriate application of tax increment financing for the state and its political subdivisions, provide guidance on developing proposed legislation to apply tax increment financing in Kentucky, and focus on the use of tax increment financing for the redevelopment of sites affected by a release of hazardous substances, pollutants, or contaminants or a release of petroleum.*
- *(2) The authority shall present the results of the review to the Interim Joint Committee on Local Government no later than March 31, 2001.*

SECTION 17. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS

FOLLOWS:

The cabinet shall implement Sections 2 to 12 of this Act from and after the effective date of this Act. The cabinet shall publish forms by October 31, 2000, and may promulgate necessary administrative regulations, to implement Sections 2 to 12 of this Act.

Section 18. Sections 2 to 17 of this Act may be cited as the Voluntary Environmental Remediation Act."

Announcements

The following meeting was announced:

Conference Committee on **HB 992**, March 29, 2000, 9:00 a.m., Majority Floor Leader's Office.

Adjournment

Representative Stumbo moved that the House adjourn until 12:00 noon, March 29, 2000.

The motion that the House adjourn until 12:00 noon, March 29, 2000, was adopted by voice vote.

MARCH 29, 2000

FIFTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Mr. John Lindgren, WTVQ Television, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Walton.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 28, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

HB 118, HB 136, HB 161, HB 244, HB 310, HB 360, HB 405, HB 438, HB 462, and **HB 643** delivered to the Senate and signed by the President. Delivered to the Governor on March 29, 2000, at 8:45 a.m.

HB 619, HB 742, and **HB 807** delivered to the Senate and signed by the President. Delivered to the Governor on March 29, 2000, at 8:49 a.m.

Introduction of Resolutions

HR 192, by Representative Moberly: A RESOLUTION adjourning the House of Representatives in honor of Don Judy.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 190, HR 191**

Report of Committees

A Conference Committee Report filed on **HB 629**.

A Conference Committee Report filed on **HB 287**.

A Free Conference Committee Report filed on **HB 517**.

A Free Conference Committee Report filed on **HB 8**.

Calendar

SB 70 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Hoffman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Hoffman moved the adoption of the following **Legislative Citation No. 153**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates the Georgetown College Men's Basketball Team for outstanding performance during the 63rd Annual NAIA Men's Division I Basketball National

Championship Tournament which resulted in this team advancing to the championship game and being defeated only in the final moments, thereby attaining Runner-up honors, an accomplishment which the members of this honorable body heartily appreciate and applaud. Additionally, this Georgetown College Team had three members, Will Carlton, Todd Cox and Mark Williams named to the All-Tournament Team. Inasmuch as this phenomenal team, under the skilled tutelage of head coach Happy Osborne, has demonstrated remarkable talent and dedication to the sport of basketball and, as a result, has brought great honor to the school, the community and this great Commonwealth, the members of this distinguished body are delighted to join Representative Charlie Hoffman in applauding the stellar achievements of the Georgetown College Tigers Basketball Team. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 153 was adopted without objection.

Representative Westrom moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 157**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of John Lindgren for the many and generous contributions he has made to the citizens of this great Commonwealth throughout his television news career. Receiving his Bachelor of Arts Degree in Communication Arts from Columbia College in Chicago, his media career began at WMBI radio. Breaking into television in Madison, Wisconsin, as a weekend sports anchor and general assignment news reporter, he went on to become the news director and news anchor for two daily newscasts. Moving to Louisville in 1977 as back-up anchor for WHAS-TV and serving as the station's Indiana Bureau Chief, his next move took him to Lexington as primary news anchor for WKYT-TV, until 1987. Following a stint at WTVF-TV in Nashville, he returned to Lexington to be part of the primary anchor team for Newschannel 36. In his ten years at Channel 36, he has become one of the most recognized people in the Bluegrass and one of the most highly regarded. It is, however, for his stalwart and faithful nature that John Lindgren is being honored today. Having been diagnosed with cancer nearly three years ago, he has continued his work, directly facing and sharing the reality of his illness with his audience. Demonstrating a straightforward and totally unpretentious demeanor, he has served as a most remarkable example of the actions of a faithful and deeply spiritual man showing grace under pressure. The members of this prestigious body are honored to join Representative Susan Westrom in honoring John Lindgren today for his generous, courageous and devoted spirit and in extending to him highest regard. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 157 was adopted without objection.

On the roll call to show co-sponsors. (See March 29, 2000 roll call on the motion to show co-sponsors-Appendix.)

Representative Moberly moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Moberly moved the adoption of the following **HR 192**:

HR 192, A RESOLUTION adjourning the House of Representatives in honor of Don Judy.

WHEREAS, Don Judy was born on June 2, 1941, a native of Frankfort, Franklin County, Kentucky; he is the loving son of Veronica and William Judy; he is the devoted husband of Ann Bacon Judy; he is the loving father of three daughters, Susan Judy Harrod, Lissa Judy McCracken, and Veronica Lynn Judy; and he is the proud grandfather of Brandon Harrod, Justin Harrod, Spencer McCracken, and Cassidy McCracken; and

WHEREAS, Don Judy graduated from Good Shepherd School in 1959, and he completed his undergraduate and graduate work at the University of Kentucky; and

WHEREAS, Don Judy began his public service career as budget analyst in the Department of Finance from 1965-1970; he was special projects staff associate for the Council of State Governments from 1970-1974; and he was Deputy Director of the National Association of State Budget Officers in Washington, D.C. from 1974-1978; and

WHEREAS, the late Vic Hellard, Jr., beloved Director of the Legislative Research Commission, recognized Don Judy's genius and experience in the field of finance, and further realizing that Don Judy could make significant contributions to the Legislative Research Commission and the Kentucky General Assembly, Vic Hellard, Jr. was successful in convincing him that his place was not in our nation's Capital, but in the Capital City of Frankfort where his family roots are deeply embedded in her soil; and

WHEREAS, while exemplifying dedication, professionalism, and high standards, Don Judy persevered through each "grueling" legislative session since 1980, working long hours on the Commonwealth's Budget Bill, and continuing his responsibilities on fiscal and budgetary matters during the interim; and, through the years, he applied his knowledge in a way that was comparable to the very best, while gaining respect and admiration from his peers and from the members of the General Assembly; and

WHEREAS, during his years of service to the Legislative Research Commission and the Kentucky General Assembly, Don Judy exemplified a dedication and professionalism that many people seek to achieve, but few accomplish; and

WHEREAS, Don Judy retired from the Legislative Research Commission on December 31, 1999;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed proud and honored to recognize Don Judy for his immeasurable contributions to the Legislative Research Commission and the Kentucky General Assembly. We wish to him, upon his retirement, continued success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Don Judy.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Don Judy.

There being no objection **HR 192** was adopted.

On the roll call to show co-sponsors. (See March 29, 2000 roll call on the motion to show co-sponsors-Appendix.)

Representative Ford moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 161**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Jenifer Noland for the enthusiasm and integrity with which she served the Kentucky General Assembly. As a vital member of the House Republican Leadership Office Staff, Ms. Noland has labored for fifteen years with admirable diligence on behalf of the constituents served by that office and has demonstrated great loyalty and dedication to the Republican Party. A consummate professional, the grace and astute wit which Jenifer Noland brought to her duties have been deeply appreciated by all who have worked with her and will be sorely missed when she departs from these august halls to marry and reside in Las Vegas. The members of this honorable body are pleased to join Representative Danny Ford in applauding this distinguished young woman of the Commonwealth and in extending to her warmest wishes for her continuing success and good fortune. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 161 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 162**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Scott Stayton for his dedicated service to the Kentucky General Assembly. His seven years of service as a member of the House Republican Leadership Office Staff have been marked by his kindness and competence as well as his loyalty and dedication to the Republican Party. The members of this honorable body are pleased to join Representative Danny Ford in applauding many contributions of Scott Stayton and in extending to him best wishes for continuing success and good fortune as he departs to pursue his calling in youth ministry at Bible Baptist Church. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 162 was adopted without objection.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 181, HB 278, HB 533, HB 824, HB 865,** and **SB 119** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -1:50 p.m.)

Representative Palmer moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed.

Representative Palmer moved the adoption of the following **Legislative Citation No. 154**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the George Rogers Clark High School Boys Varsity Cheerleading Squad for exceptional performance throughout the season that resulted in this outstanding group of athletes capturing its sixth straight KAPOS State Championship title. Inasmuch as this remarkable group of athletes has demonstrated tremendous athletic ability and has brought great recognition to both school and community by the efforts put forth in this worthy endeavor, the entire membership is pleased to join with Representative R.J. Palmer in extending sincerest congratulations to the George Rogers Clark High School Boys Varsity Cheerleading Squad for this notable achievement and in expressing the hope for continued success in the future. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 154 was adopted without objection.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the George Rogers Clark High School Girls Varsity Cheerleading Squad for exceptional performance throughout the season that resulted in this outstanding group of athletes earning the 1999-2000 State Championship title in their division. Inasmuch as this remarkable group of athletes has demonstrated tremendous athletic ability and has brought great recognition to both school and community by the efforts put forth in this worthy endeavor, the entire membership is pleased to join with Representative R.J. Palmer in extending sincerest congratulations to the George Rogers Clark High School Girls Varsity Cheerleading Squad for this notable achievement and in expressing the hope for continued success in the future. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 155 was adopted without objection.

Senate Message (Continued)

Message in regard to **SB 49**: The Senate has refused to concur in the House Committee Substitute and House Committee Amendment No. 1 Title to **SB 49** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendment.

Message in regard to **SB 77**: The Senate has refused to concur in the House Committee Substitute, House Committee Amendment No. 1 Title, and House Floor Amendment No. 2 to **SB 77** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendments.

Message in regard to **HB 611**: The Senate has refused to recede from its Senate Committee Substitute, Senate Committee Amendment No. 1 Title, Senate Floor Amendment No. 2, Senate Floor Amendment No. 3, and Senate Floor Amendment No 4 to **HB 611** and is respectfully asking for a Conference Committee to be appointed.

Message in regard to **HB 677**: The Senate has refused to recede from its Senate Committee Substitute and Senate Floor Amendment No. 2 to **HB 677** and is respectfully asking for a Conference Committee to be appointed. (Time: 1:05 p.m.)

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 611**: Representatives Thomas, Chairman; McKee; Worthington; Barrows; T. Turner and Nunn.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 677**: Representatives Haydon, Chairman; Ford; C. Belcher and Collins.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **SB 77**: Representatives Rasche, Chairman; Thompson; Colter and L. Belcher.

Representative Stumbo moved the adoption of the following Conference Committee Reports on **HB 629** and **HB 287**. Agreed.

Recess

Representative Stumbo moved that the House recess until 3:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

A Conference Committee Report was filed on **HB 677**.

Senate Message (Continued)

Announcing passage of **HB 216, HB 248, HB 420, HB 421, HB 453, HB 563, HB 579, HB 667, HB 709, HB 725, HB 734, HB 689, HB 756, HB 757, HB 822, HB 830, HB 866, HB 887, HB 895, HB 944, HB 999, HCR 47, HCR 88,** and **HJR 122.** (Time: 3:25 p.m.)

Message in regard to **HB 636**: The Senate has passed **HB 636** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 702**: The Senate has passed **HB 702** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 739**: The Senate has passed **HB 739** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 763**: The Senate has passed **HB 763** by way of Senate Committee Substitute and Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body.

Orders of the Day

HB 156, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 156** is as follows:

On page 1, line 21, following "sec. 922" to insert "***(d)(1),***"; and

On page 10, line 8, following "persons and property;" to insert "***or***"; and

On page 10, line 9, following "(h)", to insert an opening bracket "[" before "Any" and to strike through the remainder of the line; and

On page 10, lines 10 through 13, to strike through all of the material on each line; and

On page 10, line 14, to strike through "(i)" and to place a closing bracket "]" following "(i)".

The Senate Floor Amendment No. 2 to **HB 156** is as follows:

On page 1, line 7, by bracketing and striking through the word "three (3)" and inserting the word "***five (5)***" before "three (3)"; and

On page 13, after line 7, by inserting the following:

"Section 2. Any person licensed to carry a concealed firearm upon the effective date of this Act shall automatically have his or her license to carry a concealed firearm extended to a period of five (5) years.".

Representative Damron moved that the House concur in Senate Committee Amendment No. 1 to **HB 156**. Agreed.

Representative Damron moved that the House concur in Senate Floor Amendment No. 2 to **HB 156**. Agreed.

Representative Damron moved that **HB 156**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 83, Nays 7**. (See March 29, 1998 roll call on **HB 156** - Appendix.)

HB 156, as amended by the Senate, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 156**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 231, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 231** is as follows:

HB 231, AN ACT relating to the licensing of trailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.675 is amended to read as follows:

(1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(1) shall be four dollars and fifty cents ($4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) shall be nineteen dollars and fifty cents ($19.50).

(2) The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of*:*

(a) Boats*;*~~[,]~~

(b) Luggage*;*~~[,]~~

(c) Personal effects*;*~~[,]~~

(d) Farm products, farm supplies, or farm equipment*;*

(e) All-terrain vehicles as defined in KRS 189.010(24);

(f) Wildlife as defined in KRS 150.010(41) that the owner or operator of the trailer has obtained while hunting; and

(g) Firearms or other supplies used in conjunction with hunting wildlife.

(3) The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents ($9.50) except the registration fee for camping trailers, travel trailers, and truck campers shall be four dollars and fifty cents ($4.50). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar ($1).

(4)~~[(2)]~~Beginning April 1, 1993, at the request of the owner, trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) to (13) may be permanently registered, except the registration shall expire when the trailer or semitrailer is sold or when it is otherwise permanently removed from service by the owner. The registration fee for the period shall be ninety-eight dollars ($98). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of three dollars ($3).

Section 2. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway~~[as of July 15, 1998]~~, a person operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:

(a) Farm or agriculture related activities;

(b) Mining or mining exploration activities;

(c) Logging activities;

(d) Any other business, commercial, or industrial activity; or

(e) Use of that vehicle on private property.

(5) (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.

(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

(6) *(a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.*

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that *are*~~[were]~~ prohibited~~[, as of July 15, 1998,]~~ may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

The Senate Committee Amendment No. 1 Title to **HB 231** is as follows:

By amending the title to read: "AN ACT relating to transportation.".

Representative J. Turner moved that the House concur in the Senate Committee Substitute to **HB 231**. Agreed.

Representative J. Turner moved that **HB 231** by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 42, Nays 46**. (See March 29, 2000 roll call on **HB 231** - Appendix.)

HB 231, by way of Committee Substitute was defeated.

HB 608, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 608** is as follows:

HB 608, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) ***"At the time of enrollment" means:***

(a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and

(b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance.

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(4)[~~(3)~~]"Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(5)[~~(4)~~]"Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(6)[~~(5)~~]"COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(7)[~~(6)~~](a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(8)[~~(7)~~]"Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(9)[~~(8)~~]"Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(10)[~~(9)~~] "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(11)[~~(10)~~] "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(12)[~~(11)~~] "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(13)[~~(12)~~] "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(14)[~~(13)~~] "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;

(15)[~~(14)~~] "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(16)[~~(15)~~] "Guaranteed acceptance program qualified individual" means an individual who:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(17)[~~(16)~~] "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(18)[~~(17)~~] "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(19)[~~(18)~~] "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(20)[~~(19)~~] (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(21)[~~(20)~~] "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(22)[~~(21)~~] "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(23)[~~(22)~~] "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(24)[~~(23)~~] "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(25)[~~(24)~~] "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(26)[~~(25)~~] "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(27)[~~(26)~~] "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(28)[~~(27)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(29)[~~(28)~~] "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(30)[~~(29)~~] "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(31)[~~(30)~~] "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(32)[~~(31)~~] "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(33)[~~(32)~~] "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(34)[~~(33)~~] "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(35)[~~(34)~~] "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(36)[~~(35)~~] "Standard benefit plan" means the plan identified in KRS 304.17A-250.

Section 2. KRS 304.17A-300 is amended to read as follows:

(1) A provider-sponsored integrated health delivery network may be created by health care providers for the purpose of providing health care services.

(2) No person shall in this Commonwealth be, act as, or hold itself out as a provider-sponsored integrated health delivery network unless it holds a certificate of filing from the commissioner. Each provider-sponsored integrated health delivery network that seeks to offer services shall first be certified by the department.

(3)[~~ Notwithstanding subsection (2) of this section, a provider-sponsored integrated health delivery network which holds a certificate of filing from the Kentucky Health Policy Board as of July 15, 1996, shall have one (1) year from July 15, 1996, to comply with the provisions of this subtitle.~~

~~(4)~~] To qualify as a provider-sponsored integrated health delivery network, an applicant shall submit information acceptable to the department to satisfactorily demonstrate that the provider-sponsored integrated health delivery network:

(a) Is licensed and in good standing with the licensure boards for participating providers;

(b) Has demonstrated the capacity to administer the health plans it is offering;

(c) Has the ability, experience, and structure to arrange for the appropriate level and type of health care services;

(d) Has the ability, policies, and procedures to conduct utilization management activities;

(e) Has the ability to achieve, monitor, and evaluate the quality and cost effectiveness of care provided by its provider network;

(f) Is financially solvent;

(g) Has the ability to assure enrollees adequate access to providers, including geographic availability and adequate numbers and types;

(h) Has the ability and procedures to monitor access to its provider network;

(i) Has a satisfactory grievance procedure and the ability to respond to enrollees' inquiries and complaints;

(j) Does not limit the participation of any health care provider in its provider network in another provider network;

(k) Has the ability and policies that allow patients to receive care in the most appropriate, least restrictive setting;

(l) Does not discriminate in enrolling members;

(m) Participates in coordination of benefits;

(n) Uses standardized electronic claims and billing processes and formats; ***and***

(o) Discloses to the cooperative reimbursement arrangements with providers[~~; and~~

~~(p) Assures that all services covered by the provider-sponsored integrated health delivery network are available to all persons enrolled in the plan within fifty (50) miles of each person's place of residence, to the extent those services are available within that area, and assures that all services not available therein shall be offered at sites as proximate to the enrollee as possible~~].

(4)[~~(5)~~]Fees for the following services shall be paid to the commissioner by every provider-sponsored integrated health delivery network, and the fees shall be the same as those for insurers as specified in Subtitle 4 of this chapter:

(a) For filing an application for a certificate of filing or amendment thereto;

(b) For filing an annual statement; and

(c) For other services deemed necessary by the commissioner.

(5)[~~(6)~~]Provider-sponsored integrated health delivery networks shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(a) Subtitle 1 -- Scope of Code;

(b) Subtitle 2 -- Insurance Commissioner;

(c) Subtitle 3 -- Authorization of Insurers and General Requirements;

(d) Subtitle 4 -- Fees and Taxes;

(e) Subtitle 5 -- Kinds of Insurance--Limits of Risk--Reinsurance;

(f) Subtitle 6 -- Assets and Liabilities;

(g) Subtitle 7 -- Investments;

(h) Subtitle 8 -- Administration of Deposits;

(i) ***Subtitle 9 -- Agents, Consultants, Solicitors and Adjuster;***

(j) Subtitle 12 -- Trade Practices and Frauds;

(k)[~~(j)~~] Subtitle 14 -- KRS ***304.14-120 to 304.14-130 and*** 304.14-500 to 304.14-560;

(l)[~~(k)~~] Subtitle 25 -- Continuity of Management;

(m)[~~(l)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(n)[~~(m)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(o)[~~(n)~~]Subtitle 99 -- Penalties.

Section 3. KRS 304.17A-330 is amended to read as follows:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by ***July 31***[~~March 30~~] to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer ***and insured*** by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

(a) Total cost per health and medical service per insured group[~~ per month~~]:

1. Cost paid by insurer;

2. Cost paid by insured; and

(b) ***Number of insureds***[~~Percentage of insured~~] who received each service.

Section 4. KRS 304.18-120 is amended to read as follows:

(1) A converted policy issued pursuant to the conversion privilege contained in a group policy providing hospital or surgical expense insurance shall ***not impose a lifetime maximum benefit of less than five hundred thousand dollars ($500,000)***[~~provide on an expense incurred basis, the following minimum benefits:~~

~~(a) Hospital room and board benefits of twenty-five dollars ($25) per day, for a minimum duration of seventy (70) days for any one period of hospital confinement as defined in the converted policy;~~

~~(b) Miscellaneous hospital expense benefits for any one (1) period of hospital confinement in a minimum amount up to twenty (20) times the hospital room and board daily benefit provided under the converted policy;~~

~~(c) Surgical operation expense benefits according to a relative value schedule, or a minimum of two hundred fifty dollars ($250); and~~

~~(d) The option to continue any existing benefits on account of pregnancy, childbirth, or miscarriage~~].

(2) ***The commissioner by administrative regulation shall establish minimum benefits for a converted policy issued pursuant to the conversion privilege contained in a group health policy.***[~~The relative values in the surgical schedule shall be consistent with the schedule of operations generally offered by the insurer under group or individual health insurance policies. In the event that the insurer and the group policyholder agree upon one (1) or more additional plans of benefits to be available for converted policies, the applicant for the converted policy may, at his option, elect such a plan in lieu of a converted policy providing the benefits of paragraphs (a), (b) and (c) of subsection (1) of this section. In no event shall the benefits be less than the minimums set forth in subsection (1) of this section.~~

~~(3) In no event need the insurer provide under the converted policy:~~

~~(a) Benefits on account of abortion or complications thereof;~~

~~(b) The benefits of paragraphs (a) and (b) of subsection (1) of this section, unless the group policy from which conversion is made provided hospital expense insurance benefits; or~~

~~(c) The benefits of paragraph (c) of subsection (1) of this section, unless the group policy provided surgical expense insurance benefits. Furthermore, the converted policy may contain any exclusion, reduction, or limitation contained in the group policy and any exclusion, reduction or limitation customarily used in individual policies issued by the insurer. With respect to any person who was covered by the group policy, the period specified in the time limit on certain defenses of the incontestable provision of the converted policy shall commence with the date the insurance on such person or member became effective under the group policy.~~

~~(4) The converted policy may provide:~~

~~(a) That any hospital, surgical, or medical expense benefits otherwise payable thereunder with respect to any person covered thereunder may be reduced by the amount of any such benefits payable under the group policy for the~~

~~same loss with respect to such person after termination of such person's coverage thereunder. The insurer shall not be entitled to use deterioration of health as the basis for refusing to renew a converted policy;~~

~~(b) For termination of coverage thereunder on any person when he is or could be covered by Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded);~~

~~(c) That the insurer may request information in advance of any premium due date of such policy of any person covered thereunder as to whether:~~

~~1. He is covered for similar benefits by another hospital, surgical or medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program; or~~

~~2. Similar benefits are provided for, or available to, such person pursuant to, or in accordance with the requirements of, any statute;~~

~~(d) That if any such person is so covered or such statutory benefits are provided or available, and such person fails to furnish the insurer the details of such coverage within thirty-one (31) days after the date of such request, the benefits payable under the converted policy may be based on the hospital or surgical or medical expenses actually incurred after excluding expenses to the extent of the amount of benefits provided or available therefor from any of the sources referred to in paragraph (c) of this subsection; and~~

~~(e) For any provisions permitted herein and may also include any other provisions not expressly prohibited by law; and any provision required to be permitted herein may be made a part of any such policy by means of an endorsement or rider.]~~

Section 5. KRS 304.43-030 is amended to read as follows:

(1) No prepaid dental plan organization shall deliver or issue for delivery in this state any contract describing dental care services available, or any endorsement, rider, or application which becomes a part thereof or any amendment thereto or modification thereof, until a copy of the form or contract or certificate and the schedule of fees or other periodic charges to be paid by the enrollees, has been filed with and approved by the commissioner. Each form, contract, or certificate must contain a complete and clear statement of:

(a) The dental care services to which the enrollee is entitled;

(b) Any limitations on the services, benefits, deductible, or copayments features;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of the dental care services.

(2) At the expiration of sixty (60) days, the form or contract so filed shall be deemed approved unless it has been previously approved or disapproved by order of the commissioner. The commissioner may withdraw approval at any time with cause.

(3) The commissioner shall disapprove any form filed under this section, or withdraw any previous approval thereof, on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this chapter;

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract;

(c) If any title, heading, or other indication of its provisions is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

SECTION 6. A NEW SECTION OF SUBTITLE 43 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each prepaid dental plan issuing dental plan contracts in this state shall, before use thereof, file with the commissioner its premium rates and classification of risks pertaining to such contracts. The prepaid dental plan shall adhere to its rates and classifications as filed with the commissioner.

(2) No filing under Section 2 of this Act that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may schedule a hearing within sixty (60) days after receiving a filing under Section 2 of this Act containing a rate increase, and after the hearing shall issue a final order approving or disapproving the filing.

(3) In approving or disapproving a filing under subsection (2) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for contracts to which the filing applies;

(c) The effect of the increase on policyholders; and

(d) Whether the prepaid dental plan has computed an enrollee's coinsurance or cost sharing on the basis of the amount actually received by a provider from the prepaid dental plan.

(4) No prepaid dental plan receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same contracts until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after an administrative hearing, may withdraw approval of the rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged.

(6) At the expiration of sixty (60) days, the filed premium rates shall be deemed approved unless approved or disapproved by order of the commissioner prior to the expiration of sixty (60) days.

(7) The commissioner may, by administrative regulation, prescribe any additional information related to rates, fees, dues, and other charges deemed necessary and relevant to be included in the filing of forms and rates required by this section.

Section 7. KRS 304.18-110 is amended to read as follows:

(1) As used in this section:

(a) "Group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his discretion, designates as subject to this section, which:

1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;

2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and

3. Are delivered, issued for delivery, or renewed after July 15, 1986;

(b) "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.

(2) Persons insured under group policies have the right upon termination of group membership to continue coverage for themselves and their dependents upon meeting the following conditions:

(a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and

(b) Notice is given to the insurer and payment of the group rate is made to the insurer within thirty-one (31) days after notice pursuant to subsection (9) of this section.

(3) Continued group health insurance coverage shall terminate on the earlier of:

(a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;

(b) If the group member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made; or

(c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(4) If a group policy is replaced, persons under continued group health insurance coverage under the replaced policy shall remain under such coverage under the replaced policy until it terminates pursuant to subsection (3) of this section.

(5) Group members have the right upon termination of coverage under a group policy for any reason to have a conversion health insurance policy providing substantially similar benefits issued to the group member by the insurer upon meeting the following conditions:

(a) The group member has been covered by the group policy or any policy it replaced for at least three (3) months;

(b) The group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection (9) of this section; and

(c) The group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection (9) of this section.

(6) Terms of conversion health insurance coverage:

(a) Conversion health insurance coverage shall be available without evidence of insurability and shall contain no pre-existing condition limitations;

(b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:

1. The effective date of the converted policy; or

2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;

(c) The conversion health insurance policy shall cover the group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated;

(d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and

(e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120.

(7) The right to continue group health insurance coverage and the right to conversion health insurance coverage shall also be available:

(a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;

(b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or

(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

(8) Continuation of group health insurance coverage or conversion health insurance coverage need not be granted in the following situations:

(a) The applicant is or could be covered by Medicare;

(b) The applicant is or could be covered by another group coverage (insured or uninsured) or, in the case of conversion health insurance coverage, the applicant is[~~ or could be~~] covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or

(c) In the case of conversion health insurance coverage, the issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection.

(9) Notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage shall be given as follows:

(a) 1. For group policies delivered, issued for delivery, or renewed after July 15, 1986, the insurer shall give written notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage to any group member entitled to continue coverage or to conversion coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group or upon termination of continued group health insurance coverage. The thirty-one (31) day period of subsections (2)(b) and (5)(b) of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group member; and

2. Upon replacement of a group policy, the replacing insurer shall determine if there are group members who were covered under the previous group policy who are not covered under the replacing group policy. The replacing insurer shall by writing notify the insurer which issued the previous group policy of such lack of coverage and the insurer which issued the previous group policy shall issue the notice required by paragraph (a) of this subsection;

(b) If a group member becomes entitled to obtain continued health insurance coverage or conversion health insurance coverage pursuant to this section and if such group member has not been given written notice of these rights pursuant to this subsection, such group member shall have an additional period within which to exercise continuation or conversion rights as follows:

1. The additional period shall expire fifteen (15) days after the group member is given notice, but in no event shall the additional period extend beyond sixty (60) days after the expiration of the thirty-one (31) day period following termination from the group or termination of group coverage;

2. Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph; and

3. If a group member makes application and pays the premium for continued health insurance coverage or conversion health insurance coverage within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group and the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage.

(10) Before a group policy may be replaced, the employer shall give at least thirty (30) days written notice by certified mail to any employee covered under the replaced policy who will not be covered under the new policy.

Section 8. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss

with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:
  (a) Two (2) representatives of insurers currently offering health benefit plans in the state;
  (b) Two (2) practicing health care providers; and
  (c) Two (2) representatives of purchasers of health benefit plans.

(3) The council shall:
  (a) Review and discuss the design of the standard health benefit plan;
  (b) Review and discuss the rate-filing process for all health benefit plans;
  (c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;
  (d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; and
  (e) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS ***304.17A-005(20)***~~[304.17A-005(19)]~~ and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 9. KRS 304.17A-210 is amended to read as follows:

Each insurer that issues health benefit plans in the individual market shall be required to issue health benefit plans in the individual market on a guaranteed-issue basis as follows:

(1) An eligible individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market;

(2) Except as provided in subsection (3) of this section, an individual who has been a resident of Kentucky for at least twelve (12) months shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(3) Except as provided in subsection (4) of this section, if the individual is a guaranteed acceptance program qualified individual and the insurer is a guaranteed acceptance program participating insurer, then the individual shall be entitled to have coverage issued under either:
  (a) The standard health benefit plan; or
  (b) The insurer's two (2) health benefit plans, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plans sold so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate upon approval of the commissioner any health benefit plans made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plans so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(4) If the insurer does not generally operate in the individual market and has elected under KRS 304.17A-420(3)(a) to be a guaranteed acceptance program participating insurer without generally operating in the individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

(5) (a) No insurer, who was not offering health benefit plans in Kentucky on January 1, 1998, shall be required to accept annually under this section individuals who, in the aggregate, would cause the insurer to have a total number of new insureds with high-cost conditions as defined in KRS ***304.17A-005(20)***~~[304.17A-005(19)]~~ or which exceed an

insurer's underwriting guidelines as approved by the commissioner under KRS 304.17A-430(3)(b) per year that is more than one-half of one per cent (0.5%) of the total number of individuals insured by the insurer under individual health benefits plans issued or issued for delivery in the Commonwealth, calculated as of the immediately preceding thirty-first day of December.

(b) The commissioner shall, by administrative regulation, establish equitable enrollment limits for the first twelve (12) months, and any remaining portion of the calendar year after the expiration of that twelve (12) month period, in which an insurer first begins doing business in the individual market. These limits shall be based on the insurer's quarterly enrollment in health benefit plans offered in the individual market in the Commonwealth.

(c) An officer of the insurer shall certify to the department when it has met the enrollment limit established in this subsection. Upon providing this certification, the insurer shall be relieved of its guaranteed issue requirement under this section for the remainder of the calendar year.

(d) If all insurers that are required to offer coverage on a guaranteed-issue basis meet the enrollment limit established in this subsection prior to the end of the calendar year, then all such insurers shall again accept individuals for guaranteed issue coverage, subject to the enrollment limit established in this subsection.

(e) If certification of the enrollment limit would leave any county in the Commonwealth without an insurer to provide coverage in the individual market, the commissioner may require any insurer that meets the criteria in KRS 304.17A-420(1) to continue to offer coverage in that county. The commissioner shall proportionally increase the enrollment limit under this subsection for all other insurers that do not meet the criteria of KRS 304.17A-420(1).

(6) An insurer that elects to use the alternative underwriting mechanism under KRS 304.17A-430(3) shall offer to those insureds who are subject to the alternative underwriting mechanism the standard plan and the two (2) plans offered by the insurer with the largest premium volume for the last calendar year.

(7) For the purposes of this section and KRS 304.17A-250, insurers whose activities in the individual market are limited to the renewal of health benefit plans issued prior to July 15, 1995, shall not be deemed to be doing business in the individual market.

(8) Subsections (1) to (7) of this section shall not apply to a health benefit plan offered by an insurer if the coverage is made available in the individual market only through one (1) or more bona fide associations.

Section 10. KRS 304.17A-430 is amended to read as follows:

(1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

(a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;

(b) An individual entitled to benefits under the health benefit plan has been diagnosed with a high-cost condition on or before the effective date of the individual's coverage for coverage issued on a guarantee-issue basis after July 15, 1995;

(c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under KRS 304.17A-200;

(d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

(e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:

(a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and

(b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.

(3) (a) There is established within the guaranteed acceptance program the alternative underwriting mechanism that a

participating insurer may elect to use. An insurer that elects this mechanism shall use the underwriting criteria that the insurer has used for the past twelve (12) months for purposes of the program plan requirement in paragraph (b) of subsection (1) of this section for high risk individuals rather than using the criteria established in KRS ***304.17A-005(20)***~~[304.17A-005(19)]~~ and 304.17A-280 for high cost conditions;

(b) An insurer that elects to use the alternative underwriting mechanism shall make written application to the commissioner. Before the insurer may implement the mechanism, the insurer shall obtain approval of the commissioner. Annually thereafter, the insurer shall obtain the commissioner's approval of the underwriting criteria of the insurer before the insurer may continue to use the alternative underwriting mechanism.

Section 11. KRS 304.17-312 is amended to read as follows:

As used in KRS 304.17-313,~~[304.17-410,]~~ 304.18-037, 304.32-280, and 304.38-210:

(1) "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization which is licensed as a home health agency by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and is certified to participate as a home health agency under Title XVIII of the Social Security Act.

(2) "Home health care" means the care and treatment provided by a home health agency which is prescribed and supervised by a physician. The care and treatment shall include but not be limited to one (1) or more of the following:

(a) Part-time or intermittent skilled nursing services provided by an advanced registered nurse practitioner, registered nurse, or licensed practical nurse;

(b) Physical, respiratory, occupational, or speech therapy;

(c) Home health aide services;

(d) Medical appliances and equipment, drugs and medication, and laboratory services, to the extent that such items and services would have been covered under the policy if the covered person had been in a hospital.

(3) "Home health aide services" means those services provided by a home health aide and supervised by a registered nurse which are directed towards the personal care of the patient. Such services shall include but not be limited to the following:

(a) Helping the patient with bath, care of mouth, skin, and hair;

(b) Helping the patient to the bathroom or in using a bedpan;

(c) Helping the patient in and out of bed and assisting with ambulation;

(d) Helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;

(e) Assisting with medication ordinarily self-administered that has been specifically ordered by a physician;

(f) Performing incidental household services as are essential to the patient's health care at home provided that such services would have been performed if the patient was in a hospital or skilled nursing facility; and

(g) Reporting to the professional nurse supervisor changes in the patient's condition or family situation.

Section 12. KRS 18A.229 is amended to read as follows:

(1) State employees as defined in KRS 18A.228 participating in the health insurance fund authorized in KRS 42.805 shall be given at least three (3) alternative plans from which participation may be chosen. One (1) plan shall require no fixed deductible expenses and reasonable co-payment ratios.

(2) State employees whose income is at or below one hundred percent (100%) of the nonfarm income official poverty guidelines as determined by the United States Department of Health and Human Services, may choose health insurance benefits ***that cover emergency medical services and basic inpatient hospital services, which shall include at least fourteen (14) days room and board and at least fifty percent (50%) of the related charges for physician's services***~~[described in KRS 304.18-025(2)(c) and (d)]~~.

SECTION 13. A NEW SECTION OF KRS CHAPTER 304.17A-500 TO 304.17A.570 IS CREATED TO READ AS FOLLOWS:

A contract executed after January 1, 2001, between a managed care plan and a physician shall not require the mandatory use of a hospitalist.

Section 14. KRS 304.17A-095 is amended to read as follows:

(1) ***(a)*** Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan ***to any market segment other than a large group*** shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers, shall submit a copy of the filing to the Attorney General, and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper.

(b) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan to a large group as defined in KRS 304.17A-005 shall file the rating

methodology with the commissioner and shall submit a copy of the filing to the Attorney General.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under KRS 304.17A-460; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) Each insurer paying a risk assessment under KRS 304.17A-460 may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section.

Section 15. KRS 304.17A-540 is amended to read as follows:

(1) Any insurer that limits coverage for any treatment, procedure, drug, or device shall define the limitations and fully disclose those limits in the health insurance policy or certificate coverage.

(2) (a) Any insurer that denies coverage for a treatment, procedure, drug or device for an enrollee shall provide the enrollee with a denial letter that shall include:

1. The name, license number, state of licensure, and title of the person making the decision;

2. A statement setting forth the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

3. A description of other alternative treatment, services, or supplies covered by the plan, if any; and

4. Instructions for initiating or complying with the plan's grievance or appeal procedure stating at a minimum whether the appeal must be in writing, any time limitations or schedules for filing appeals and the name and phone number of a contact person who can provide additional information.

(b) The denial letter shall be provided within:

1. Two (2) regular working days of the submitted request where preauthorization for a treatment, procedure, drug, or device is involved;
2. Twenty-four (24) hours of the submitted request where hospital preadmission review is sought;
3. Twenty (20) working days of the receipt of requested medical information where the plan has initiated a retrospective review; and
4. Twenty (20) working days of the initiation of the review process in all other instances.

(3) It is an unfair claims settlement practice for any person to make claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made in instances in which the insured has a liability under the policy beyond his or her copayment or deductible.

Section 16. The following KRS sections are repealed:

147A.130 Fee to cover administrative costs of health care trusts -- Referral fees prohibited.
304.17-410 Department to collect data concerning cost of health insurance -- Report to General Assembly.
304.18-025 Health care trust.
304.18-055 Pooling of claims experience required.

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 608** is as follows:

On page 35, between lines 13 and 14, by inserting the following:

"SECTION 16. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-570 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "hospitalist" means a physician of record at a hospital for a patient of a participating physician and who may return the care of the patient to that physician at the end of the hospitalization.

(2) A contract between a managed care plan and a physician shall not require the mandatory use of a hospitalist."; and by renumbering the subsequent section accordingly.

The Senate Floor Amendment No. 4 to the Senate Committee Substitute to **HB 608** is as follows:

On page 5, line 23, before the ";", by inserting the following: "*or who is a spouse or a dependent of an individual who:*

1. Waived coverage under subsection (2) of Section 9 of this Act; or

2. Did not elect family coverage that was available through the association or group market"; and

On page 25, line 14, after "market" by inserting the following: "*, except that an individual shall not be eligible for coverage if the individual has, or is eligible for, on the date of application for individual coverage, substantially similar coverage under a group contract or policy. If an individual is ineligible for coverage under this subsection, that individual's spouse or dependents shall not be precluded from eligibility for coverage in the individual market. As used in this subsection, "eligible for" includes any individual who was eligible for group coverage but who waived that coverage. That individual shall be ineligible for coverage in the individual market through the period of waived coverage.*".

The Senate Floor Amendment No. 6 to the Senate Committee Substitute to **HB 608** is as follows:

On page 19, line 24, after the period, by inserting the following:

"*In the case of replacement coverage as provided in subsection (4) of this section, the replaced policy and insurer shall terminate continued group health coverage in the same manner that coverage is terminated for active employees.*"; and

On page 19, line 25, after "(4)", by inserting the following:

"*If an employer's group policy is terminated and replaced by a new group policy, subject to the termination provisions contained in subsection (3) of this section, persons under continued group health insurance coverage under the replaced policy at the time of replacement shall be offered continued group health insurance coverage under the subsequent group policy under rules that are no less favorable to the person under continued group coverage than are available to similarly situated eligible employees. This subsection shall not be construed to prevent a change in group health coverage so long as the change does not directly discriminate against persons under continued group coverage and continues on the basis of health status-related factors.*

(5) Nothing in subsection (4) of this section shall be construed to begin a new eighteen (18) months period of continued group health insurance coverage eligibility under paragraph (a) of subsection (3) of this section. This eligibility shall be a continuous period of eighteen (18) consecutive months.

(6)"; and

On page 19, line 25, by placing an opening bracket before "If", and on page 20, line 1, by placing an ending bracket after

"(5)", and by striking through all intervening language; and

On page 20, line 9, after "subsection", by inserting "*(10)*", and by placing brackets around and striking through "(9)"; and

On page 20, line 12, after "subsection", by inserting "*(10)*", and by placing brackets around and striking through "(9)"; and

On page 20, line 13, before "(6)", by inserting "*(7)*", and by placing brackets around and striking through "(6)"; and

On page 21, line 3, before "(7)", by inserting "*(8)*", and by placing brackets around and striking through "(7)"; and

On page 21, line 16, before "(8)", by inserting "*(9)*", and by placing brackets around and striking through "(8)"; and

On page 22, line 2, before "(9)", by inserting "*(10)*", and by placing brackets around and striking through "(9)"; and

On page 22, line 11, after "and", by inserting "*(6)(b)*", and by placing brackets around and striking through "(5)(b)"; and

On page 23, line 15, before "(10)", by inserting "*(11)*", and by placing brackets around and striking through "(10)".

The Senate Floor Amendment No. 7 to the Senate Committee Substitute to **HB 608** is as follows:

On page 35, between lines 13 and 14, by inserting the following:

"Section 16. KRS 205.5632 is amended to read as follows:

(1) No prior authorization shall be required for reimbursement of any claim involving any Medicaid-covered new drug that is available after July 15, 1998, for a period of at least twelve (12) months, during which time the Drug Management Review Advisory Board may review the product.

(2) The Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A for the drug submission program. Prior to implementation of the administrative regulations, the Drug Management Review Advisory Board shall review the guidelines.

(3) The Department for Medicaid Services shall, within twenty-four (24) months of July 15, 1998, analyze drug class reviews of all current drugs requiring prior authorization, and shall continue requiring prior authorization by using drug class reviews, safety, utilization factors, and unusual or extreme cost drivers having inappropriate economic impact on the Department for Medicaid Services, until the review criteria are promulgated by administrative regulations according to KRS Chapter 13A, and pursuant to KRS 205.5634(2). At least fifty percent (50%) of class reviews shall be completed within twelve (12) months of July 15, 1998.

(4) (a) Federal Food and Drug Administration (FDA) approved prescription drugs that have been determined to be within the same pharmacological category, and that have comparable clinical application, efficacy, and safety, and that are of comparable cost to other FDA-approved prescription drugs that have been placed on the Kentucky Medicaid nonprior-authorized drug file shall be placed on the Kentucky Medicaid nonprior-authorized drug file. Any drug that is removed from prior authorization in accordance with the provisions of this section shall be returned to prior authorization status if the comparable drug that was nonprior-authorized subsequently becomes prior authorized. To assure the cost effective operation of the Medicaid pharmacy program, the department shall file, no later than October 1, 2000, administrative regulations in accordance with KRS Chapter 13A that describe the process that will be employed to describe drug comparability with regard to efficacy, safety, and cost.

(b) For purposes of this subsection, "pharmacological category" means a category of drugs that is characterized as having very similar properties and therapeutic effects upon living organisms."; and

By renumbering the subsequent section accordingly.

The Senate Floor Amendment No. 8 to the Senate Committee Substitute to **HB 608** is as follows:

On page 35, between lines 13 and 14, by inserting the following:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "adult day health care program" means a program licensed by the Cabinet for Health Services that provides organized health care for its clients during specified daytime hours, that may include continuous supervision to assure that health care needs are being met, supervision of self-administration of medications, and provision of nursing services, personal care services, self-care training, and social and recreational activities for individuals of all ages.

(2) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish health, safety, and treatment requirements for licensed adult day health care programs. No person, association, corporation, or other organization shall operate or maintain an adult day health care program without first obtaining a license as provided in this section.

(3) The cabinet may issue a license upon request to any adult day health care program meeting the standards required under subsection (2) of this section and administrative regulations promulgated thereunder. The cabinet may deny,

revoke, suspend, or modify an adult day health care program license for failure to comply with standards set by the cabinet.

(4) Services provided in an adult day health care program for its clients may include:

(a) Medical therapeutic services; and

(b) Physical and speech therapy."; and

By renumbering the subsequent section accordingly.

The Senate Floor Amendment No. 9 to the Senate Committee Substitute to **HB 608** is as follows:

On page 35, between lines 13 and 14, by inserting the following:

"Section 16. KRS 205.561 is amended to read as follows:

(1) The cabinet shall submit an annual report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560, on or before *December*~~[September]~~ 1 of *each*~~[the]~~ year. *Each*~~[Such]~~ report shall include *a research study to determine the average cost of dispensing prescription medications*~~[an estimate of the current cost to pharmacies]~~, including associated administrative costs, *and the average cost of acquiring drugs for*~~[of dispensing prescription medications to]~~ eligible recipients under the provisions of KRS 205.560, the current level of dispensing fee provided by the cabinet, and an estimate of ~~[additional]~~ revenues required to adequately adjust reimbursement to cover costs for~~[such]~~ pharmacies. The report shall also include current data on the most utilized and abused drugs in Medicaid, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients, objectives and timelines for cost containment in the Medicaid drug program, comparative data from other states, and cost effectiveness of the drug formulary and prior authorization process. The annual report shall be developed with the advice of the Drug Management Review Board created under KRS 205.5636.

(2) Prior to data collection and analysis of any research study to determine the cost of dispensing prescription medications and the cost of acquiring drugs for Medicaid eligible recipients, the Cabinet for Health Services and any person or entity holding a contract to perform the study shall report to the Interim Joint Committee on Health and Welfare regarding the proposed research methodology for carrying out subsection (1) of this section.

(3) Any research study to determine the cost of dispensing prescription medications and the cost of acquiring drugs for Medicaid eligible recipients shall include the following components:

(a) Recent academic review of the literature, previous research performed for the Department for Medicaid Services, and research from other states to determine the relevant factors or characteristics to include in the study;

(b) Analysis of relevant factors or characteristics that influence dispensing and acquisition costs including, but not limited to:

1. Urban versus rural location;

2. Chain versus independent affiliation;

3. Total prescription volume; and

4. Medicaid volume as a percent of the total volume;

(c) Sufficient representative sample appropriately stratified to make valid estimates of the effects of each of the relevant factors on dispensing and acquisition costs;

(d) Standard error for each estimate;

(e) Calculation of a ninety-five percent (95%) confidence interval for each sample estimate;

(f) Reports of statistical tests of significance at the five percent (5%) significance level to determine if the variation in dispensing and acquisition costs occur across the stratification types included in the study;

(g) Reports of test results for normality;

(h) Reports of methods to identify and exclude outliers; and

(i) Analysis of the cost of administering the prior authorization program by the Department for Medicaid Services and factors which cause a discrepancy between the cost of dispensing prescription medications and the cost of acquiring drugs for Medicaid eligible recipients as compared to the cost of dispensing prescription medications and acquiring drugs for patients within the commercial market.

(4) The findings of any research study and the annual report required under this section shall be used to establish the fees for dispensing prescription medications to Medicaid eligible recipients. The dispensing fees shall reflect the average cost of dispensing prescription medications to Medicaid eligible recipients in accordance with the annual report.

Section 17. KRS 205.6316 is amended to read as follows:

The Cabinet for Health Services shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication; ***and***

(4) A dispensing fee for each prescription in accordance with the findings of the ***annual*** report submitted by the cabinet pursuant to KRS 205.561."; and

By renumbering the subsequent section accordingly.

Representative Palmer moved that the House refuse to concur in the Senate Committee Substitute to **HB 608**. Agreed.

Representative Palmer moved that the House refuse to concur in the Senate Floor Amendment No. 2, Senate Floor Amendment No. 4, Senate Floor Amendment No. 6, Senate Floor Amendment No. 7, Senate Floor Amendment No. 8, and Senate Floor Amendment No. 9 to **HB 608**. Agreed.

Report of Committees (Continued)

A Conference Committee Report was filed on **HB 677**. The Committee cannot agree and requests that a Free Conference Committee be appointed.

A Conference Committee Report was filed on **HB 577.** The same members will serve on the Free Conference Committee. The Committee cannot agree and requests that a Free Conference Committee be appointed.

A Conference Committee Report was filed on **HB 576.** The same members will serve on the Free Conference Committee. The Committee cannot agree and requests that a Free Conference Committee be appointed.

A Conference Committee Report was filed on **HB 611.** The same members will serve on the Free Conference Committee. The Committee cannot agree and requests that a Free Conference Committee be appointed.

Orders of the Day (Continued)

HB 778, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 778** is as follows:

On page 1, line 7, after "***fine***", by inserting "***for chronic violators***"; and

On page 2, line 23, after "***(4)***", by inserting "***Except as provided by subsection (3) of this section,*** "; and

On page 2, line 24, after "***for***", by deleting the rest of the line and by inserting "***the third and subsequent violations made within a twenty-four (24) month period.***".

Representative Thomas moved that the House concur in Senate Floor Amendment No. 1 to **HB 778**. Agreed.

Representative Thomas moved that **HB 778**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 87, Nays 9**. (See March 29, 2000 roll call on **HB 778** - Appendix.)

HB 778, as amended by the Senate, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 778**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 897, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 897** is as follows:

On page 5, line 5, after the word "***to***" by inserting "***15***".

The Senate Floor Amendment No. 3 to **HB 897** is as follows:

On page 11, after line 15, by inserting the following

"Section 11. The General Assembly finds that regulated telecommunication providers have expanded into unregulated lines of business, such as the provision of internet and cable television service, which may give them an unfair advantage over existing and new entrants. The General Assembly further finds that it is the intent of KRS 278.514 to grant the Public Service Commission the statutory authority to prohibit subsidization of nonregulated telecommunication services by regulated telecommunications providers. Currently, telecommunications providers are subject to cost allocation and affiliate transaction rules promulgated by the Federal Communications Commission (FCC) that govern accounting standards and pricing relationships between the regulated utility and unregulated programs or affiliates. However, passage of the 1996 Telecommunications Act is making the telecommunications industry more competitive, and formerly regulated telecommunications providers may be subject to new federal rules regarding cost allocation and affiliate transactions.

Section 12. The Special Subcommittee on Energy is directed to study whether an additional statutory remedy is necessary to prevent cross-subsidization of nonregulated telecommunication services, with a particular emphasis on internet service, provided by regulated telecommunications utilities or their affiliates. The Special Subcommittee on Energy shall also determine if regulated telecommunications providers have an undue advantage in the provision of nonregulated services such as internet. The Special Subcommittee shall identify existing federal and state laws, rules and regulations that govern cost allocation, affiliate transaction rules, and a code of conduct between regulated utilities and their nonregulated programs or affiliates. The Special Subcommittee shall also take into account the cost of enforcing and the additional statutory authority that may be required to allow the Public Service Commission to prevent cross-subsidization while maintaining a level playing field between all providers of unregulated telecommunications services.

Section 13. The Special Subcommittee shall submit a final report that shall include findings and recommendations to the Legislative Research Commission no later than November 15, 2001.

Section 14. Provisions of this bill to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified in Section 11 to 13 of this Act to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Representative Weaver moved that the House concur in Senate Committee Amendment No. 1 to **HB 897**. Agreed.

Representative Weaver moved that the House concur in Senate Floor Amendment No. 3 to **HB 897**. Agreed.

Representative Cave abstained because of a conflict.

Representative Weaver moved that **HB 897**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 29, 1998 roll call on **HB 897** - Appendix.)

HB 897, as amended by the Senate, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 897**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 202, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 202** is as follows:

HB 202, AN ACT relating to inherited metabolic disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Health Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the

purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. ***For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:***

1. Phenylketonuria;
2. Hyperphenylalaninemia;
3. Tyrosinemia (types I, II, and III);
4. Maple syrup urine disease;
5. A-ketoacid dehydrogenase deficiency;
6. Isovaleryl-CoA dehydrogenase deficiency;
7. 3-methylcrotonyl-CoA carboxylase deficiency;
8. 3-methylglutaconyl-CoA hydratase deficiency;
9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
10. B-ketothiolase deficiency;
11. Homocystinuria;
12. Glutaric aciduria (types I and II);
13. Lysinuric protein intolerance;
14. Non-ketotic hyperglycinemia;
15. Propionic acidemia,
16. Gyrate atrophy;
17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
18. Carbamoyl phosphate synthetase deficiency;
19. Ornithine carbamoyl transferase deficiency;
20. Citrullinemia;
21. Arginosuccinic aciduria;
22. Methylmalonic acidemia; and
23. Argininemia;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

(h) Services provided by health-care delivery networks as defined in KRS 216.900; and

(i) Services provided by midlevel health-care practitioners as defined in KRS 216.900.

(2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance

Program, the Cabinet for Health Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health Services; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Health Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for

reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for Health Services may make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

Section 2. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ***ten***[~~nine~~] dollars ***($10)***[~~($9)~~] to be paid for a certified copy of a record of a birth, three dollars ($3) of which shall be used by the Cabinet for Health Services or the Cabinet for Families and Children for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children***, and one dollar ($1) of which shall be used by the Division of Maternal and Child Health to pay for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases listed in subsection (1)(c) of Section 1 of this Act, if:***

(a) The amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases listed in subsection (1)(c) of Section 1 of this Act and are administered under the direction of a physician; and

(b) The affected person's amino acid modified formula and foods are not covered under any public or private health benefit plan.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 3. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for Health Services. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for Health Services or his designee. The secretary of the Cabinet for Health Services shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

(3) The cabinet shall make available the names and addresses of health care providers, including, but not limited to, physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for an inborn error of metabolism, including, but not limited to, PKU.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan that provides coverage for a family or dependent shall provide coverage of a newly born child of the insured from the moment of birth.

(2) Coverage for a newly born child shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed inherited metabolic diseases.

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond that thirty-one (31) day period.

(4) (a) For purposes of this subsection:

1. "Amino acid modified preparation" means a product intended for the dietary treatment of an inherited metabolic disease listed in subsection (1)(c) of Section 1 of this Act under the direction of a physician; and

2. "Low-protein modified food" means a product formulated to have less than one (1) gram of protein per serving and intended for the dietary treatment of an inherited metabolic disease listed in subsection (1)(c) of Section 1 of this Act under the direction of a physician.

(b) A health benefit plan that provides prescription drug coverage shall provide that coverage for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases if the amino acid products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician. Coverage under this subsection may be subject, for each plan year, to a cap of four thousand dollars ($4,000) on both individual medical food prescription expenditures and medical formulas, subject to annual inflation adjustments.

(5) The requirements of this section shall apply to all health benefit plans delivered on and after the effective date of this Act.

(6) Nothing in this section or Section 1, 2, or 3 of this Act shall be construed to require a health benefit plan to provide coverage for an amino acid modified preparation or low-protein modified food for the treatment of lactose intolerance, protein intolerance, food allergy, food sensitivity, or any other condition or disease not listed in subsection (1)(c) of Section 1 of this Act.

Representative Westrom moved that the House concur in the Senate Committee Substitute to **HB 202**. Agreed.

Representative Westrom moved that **HB 202**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 29, 2000 roll call on **HB 202** - Appendix.)

HB 202, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 202**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 583, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 583** is as follows:

HB 583, AN ACT relating to proceeds from the Tobacco Master Settlement Agreement, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.654 is amended to read as follows:

There is established in the State Treasury a permanent and perpetual fund to be known as the "Tobacco Settlement Agreement Fund" to which shall be credited any funds designated to the Commonwealth from the *master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states*[~~tobacco settlement agreement~~] or related federal legislation. *All investment income earned from moneys deposited in the fund prior to the effective date of this Act and after the effective date of this Act shall accrue to the fund.* Any funds designated to the Commonwealth from the settlement agreement or related federal legislation *and all investment income accruing to the fund* shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco farmers and tobacco-impacted communities and health-related areas. *Moneys in the fund, including all investment income accruing to the fund, shall be distributed within twenty (20) days of the effective date of this Act and within twenty (20) days of receipt of any moneys deposited to the fund after the effective date of this Act as follows:*

(1) Fifty percent (50%) to the rural development fund created in Section 2 of this Act;

(2) Twenty-five percent (25%) to the early childhood development fund created in Section 3 of this Act; and

(3) Twenty-five percent (25%) to the Kentucky health care improvement fund created in Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Rural Development Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve and promote agricultural development for residents of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the chair of the rural development board. Before and after July 1, 2000, fifty percent (50%) of the proceeds in the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act. All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. The board shall develop and oversee the implementation of a strategic plan. The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals, and it shall be updated every two (2) years. The board shall submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year for the preceeding fiscal year, outlining its activities and expenditures. The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Early Childhood Development Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve and promote early childhood development for children of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the chair of the early childhood development board. Beginning July 1, 2000, twenty-five percent (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act. All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. The board shall develop and oversee the implementation of a strategic plan. The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals, and it shall be updated every two (2) years. The board shall submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year for the preceeding fiscal year, outlining its activities and expenditures. The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Kentucky Health Care Improvement Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve health care and access to health insurance residents of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasury upon the warrant of the secretary of the Cabinet for Health Services. Beginning July 1, 2000, twenty-five percent (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act. All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. The board shall develop and oversee the implementation of a strategic plan. The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals, and it shall be updated every two (2) years. The board shall submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year for the preceeding fiscal year, outlining its activities and expenditures. The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The "Lung Cancer Research Fund" is created and shall receive funds each year from the Kentucky Health Care Improvement Fund. The lung cancer research fund shall be used to finance the Lung Cancer Research Project described in subsection (5) of this section. No revenues from the lung cancer research fund shall be allocated until the board has adopted the strategic plan described in subsections (5) and (6) of this section.

(2) A research consortium between the University of Kentucky and the University of Louisville is created and shall be known as the Governance Board of the Lung Cancer Research Project. The consortium shall be attached to the Council on Postsecondary Education for administrative purposes.

(3) The board shall consist of nine (9) members appointed by the Governor as follows:

(a) Two (2) members shall be from the faculty of the School of Medicine at the University of Kentucky;

(b) Two (2) members shall be from the faculty of the School of Medicine at the University of Louisville;

(c) Two (2) members shall be from the Council on Postsecondary Education; and

(d) Three (3) members shall be from the state at large, one (1) of whom shall be appointed chair by the Governor.

(4) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

(a) Two (2) members shall be appointed for one (1) year;

(b) Two (2) members shall be appointed for two (2) years;

(c) Two (2) members shall be appointed for three (3) years; and

(d) Three (3) members shall be appointed for four (4) years.

(5) The Governance Board of the Lung Cancer Research Project shall develop and oversee the implementation of a twenty (20) year strategic plan that utilizes the resources of both the University of Louisville and the University of Kentucky in establishing the Lung Cancer Research Project. The Lung Cancer Research Project shall be a joint program to:

(a) Develop an expertise in the area of lung cancer research with an immediate focus on early detection and epidemiology and with an ultimate goal of eradication of lung cancer;

(b) Establish a statewide clinical trial network to make university-based clinical trials available to the community physician in order to bring the most innovative cancer treatments to all Kentuckians in need of these treatments;

(c) Leverage the resources earmarked for the Lung Cancer Research Project toward the certification of the cancer program at the University of Kentucky and the University of Louisville by the National Cancer Institute as a cancer center; and

(d) Undertake other initiatives consistent with the strategic plan.

(6) The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals; it shall be updated every two (2) years.

(7) The Governance Board of the Lung Cancer Research Project shall submit an annual report to the Governor and the Legislative Research Commission by September 1 each year for the preceding fiscal year, outlining its activities and expenditures.

(8) The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the lung cancer research fund and, if necessary in the opinion of the Auditor, the operations of the Lung Cancer Research Project and the lung cancer research fund.

Section 6. Fifty percent of the proceeds of the tobacco settlement agreement fund on the effective date of this Act, and of any additions thereto prior to July 1, 2000, shall be deposited in the rural development fund established by Section 2 of this Act for the purpose set forth in that section for that fund.

Section 7. Whereas the Commonwealth's next fiscal year begins on July 1 and the General Assembly finds that it is critical that the provisions of this Act take effect prior to the beginning of the new fiscal year, an emergency is declared to exist and this Act takes effect its passage and approval by the Governor or upon its otherwise becoming a law.

Representative Barrows moved that the House concur in the Senate Committee Substitute to **HB 583**. Agreed.

Representative Barrows moved that **HB 583**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 29, 2000 roll call on **HB 583** - Appendix.)

HB 583, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 583**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 645, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 645** is as follows:

HB 645, AN ACT relating to city utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.740 is amended to read as follows:

(1) Any municipality desiring to acquire and operate an electric plant under the provisions of KRS 96.550 to 96.900 or any

municipality now owning and operating an electric plant may elect to operate under the provisions of KRS 96.550 to 96.900 by enacting an ordinance declaring therein the desire and intention of the municipality to accept and operate under the provisions of KRS 96.550 to 96.900 and by providing in ***the***[~~said~~] ordinance that the municipality accepts and agrees to all of the provisions of KRS 96.550 to 96.900, and to all of ***the***[~~said~~] provisions as they may be from time to time amended by the acts of the General Assembly of Kentucky. The ordinance shall further authorize the mayor or chief executive to appoint a board, subject to the approval of the appointments by the governing body of the municipality as hereinafter in KRS 96.750 to 96.900 provided. Upon the passage of ***the***[~~such~~] ordinance the mayor or chief executive of any[~~ such~~] municipality may, with the approval of the governing body of the municipality, appoint a board of public utilities, consisting of four (4) residents of the municipality who have resided therein for not less than one (1) year next preceding the date of the appointment. ***The***[~~Said~~] board must be appointed and qualified before the municipality shall have any authority to proceed further under the provisions of KRS 96.550 to 96.900. ***The***[~~Said~~] board, when so appointed and qualified, shall be and hereby is declared to be a body politic and corporate, with perpetual succession; and[~~ said body~~] may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The name of ***the***[~~said~~] board shall be "Electric Plant Board of the City of ....." (The name of the municipality to be inserted.)

(2) No person shall be appointed a member of the board who has, within the last two (2) years next before his ***or her*** appointment, held any public office, or who is related within the third degree to the mayor or any member of the governing body of the municipality.

(3) Neither the board nor the superintendent appointed by the board shall appoint to any subordinate office which it may create nor employ in any capacity any person who is related within the third degree to any member of the board or to the mayor of ***the***[~~said~~] municipality or to any member of the governing body of ***that***[~~said~~] municipality. No officer or employee of a municipality shall be eligible for such appointment until at least one (1) year after the expiration of the term of his ***or her*** public office, or employment***, except that the one (1) year waiting period after the expiration of the term of public office or employment shall not apply to an employee of a municipality that is not related within the third degree to the mayor or any member of the governing body of the municipality, at the time of appointment or employment by the board***[~~; and any payment made in violation of this clause of this section shall be illegal and the superintendent and the board members voting for or approving or consenting to same shall be personally liable for the amount so paid and this liability may be enforced by suit by any citizen of the municipality~~].

(4) The members of the board shall be citizens, taxpayers, and legal voters of ***the***[~~such~~] municipality and shall not at the time of the appointment be indebted to the municipality either directly or indirectly or be surety on the official bond of any officer of ***the***[~~said~~] municipality.

(5) If at any time during his ***or her*** term of office a member of the board becomes a candidate for or is elected or appointed to any public office, he ***or she*** shall automatically vacate his ***or her*** membership from the board, and another person shall be appointed to his ***or her*** place.

(6) The municipality shall pay the cost of securing bonds for board members from a surety company qualified to do business in Kentucky, and[~~ said~~] members shall execute bond in an amount required by resolution of the governing body, and conditioned upon the faithful performance of their official duties.

(7) Each member of the board shall qualify by taking the oath required by Section 228 of the Constitution.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 645** is as follows:

On page 3, after line 5, by inserting the following

"Section 2. KRS 96.520 is amended to read as follows:

(1) Any city of the second, third, fourth, fifth, or sixth class may purchase, establish, erect, maintain, and operate electric light, heat, and power plants, with extensions and necessary appurtenances, within or without the corporate limits of the city, for the purpose of supplying the city and its inhabitants with electric light, heat, power, and telecommunications***. Any city-owned utility created under this section that provides municipal telephone service shall be regulated as to that service by KRS Chapter 278. For the***[~~ and, for this~~] purpose, ***of providing electric light, heat, power, and telephone services, a city of the second, third, fourth, fifth, or sixth class*** may enter into and fulfill the terms of an interconnection agreement with any electric or combination electric or gas utility whose rates and service are regulated by the Public Service Commission of Kentucky (or, if not so regulated, operating and having customers only outside of Kentucky), or an affiliate entirely owned by or under complete common ownership with an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky***. Any city of the second, third, fourth, fifth, or sixth class***[~~, and~~] may establish, erect, maintain, and operate plants, individually or jointly with any of these utilities or utility affiliate. In the case of any joint action, a city and utility or utility affiliate may provide by contract for their respective responsibilities, for operation and maintenance and for the allocation of expenses, revenues, and power. If in the accomplishment of this purpose a city at any time has capacity or energy surplus to the immediate needs of the city and its inhabitants, the surplus, if not disposed of for consumption outside this state, may be disposed of only to an

electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky, or to an affiliate entirely owned by or under complete common ownership with such a utility.

(2) The city shall proceed in the same manner and be governed by the same conditions as are set forth in KRS 96.360 to 96.510 for the acquisition and operation of a water system, with the following exceptions:

(a) A petition calling for an election on the proposition of purchasing an existing plant shall be signed by at least two hundred (200) qualified voters of the city, rather than by twenty-five percent (25%) of the qualified voters of the city who voted at the last preceding regular election.

(b) Notwithstanding any other laws, bonds may be issued bearing interest at a rate or rates and may be sold on a basis to yield interest at a rate or rates as may be determined upon the sale of the bonds.

(c) Bonds of an issue, or bonds of two (2) or more issues consolidated for the purposes of sale, which equal or exceed $10,000,000 in the aggregate principal amount may be sold at public or private sale without compliance with KRS 424.360.

(3) This section constitutes a method for the acquisition of an electric light, heat, and power plant by any city of the second, third, fourth, fifth, or sixth class in addition or as an alternate to any other method authorized by statute, provided that the city was operating an electric plant on June 1, 1942, and has not elected to operate under KRS 96.550 to 96.900. No proceedings shall be required for the acquisition of any electric light, heat, or power plant or the issuance of bonds under this section except the proceedings required by KRS 96.360 to 96.510.".

Representative Rasche moved that the House concur in the Senate Committee Substitute to **HB 645**. Agreed.

Representative Rasche moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute. Agreed

Representative Rasche moved that **HB 645** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 29, 2000 roll call on **HB 645** - Appendix.)

HB 645, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 645**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 152, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative D. Butler moved that the House refuse to recede from the House Committee Substitute, House Floor Amendment No. 1 Title, House Floor Amendment No. 2, and House Floor Amendment No. 3 to **SB 152**. Agreed.

SB 113, with House Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Johns moved that the House refuse to recede from House Floor Amendment No. 1, House Floor Amendment No. 3, and House Floor Amendment No. 2 Title to **SB 113**. Agreed.

SB 70 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 70** be passed.

On the roll call the vote was: **Yeas 76, Nays 16**. (See March 29 , 2000 roll call on **SB 70** - Appendix.)

SB 70 was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 70** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 169 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HR 169** be adopted.

On the roll call the vote was: **Yeas 78, Nays 0**. (See March 29, 2000 roll call on **HR 169** - Appendix.)

HR 169 was adopted.

Representative Riner moved that the vote by which **HR 169** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 185 taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HR 185** be adopted.

On the roll call the vote was: **Yeas 76, Nays 10**. (See March 29, 2000 roll call on **HR 185** - Appendix.)

HR 185 was adopted.

Representative Yonts moved that the vote by which **HR 185** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 69 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **SB 69** be passed.

On the roll call the vote was: **Yeas 82, Nays 7**. (See March 29 , 2000 roll call on **SB 69** - Appendix.)

SB 69 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **SB 69** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 107 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **SJR 107** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 29, 2000 roll call on **SJR 107** - Appendix.)

SJR 107 was adopted.

Representative L. Clark moved that the vote by which **SJR 107** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 465, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 465** is as follows:

On page 1, line 14, following "***passengers for hire***" to insert "***or to a toll ferry operating pursuant to a certificate of convenience and necessity or a perpetual and irrevocable franchise operating pursuant to KRS 280.010 to 280.110***".

Representative Riggs moved that the House concur in Senate Floor Amendment No. 1 to **HB 465**. Agreed.

Representative Riggs moved that **HB 465**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 84, Nays 8**. (See March 29, 2000 roll call on **HB 465** - Appendix.)

HB 465, as amended by the Senate, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 465**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 331, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 8 Title to **HB 331** is as follows:

By amending the title to read as follows:
"AN ACT relating to the sale of confiscated firearms.".

Representative Gray moved that **HB 331**, as amended by the Senate, be passed.

Representative Damron moved previous question.

Representative L. Clark raised a point of order, stating that he did not object to the subject matter under discussion but he objected to the integrity of process.

In response to comments from Representative Stein, Representative Gray raised a point of order, stating that the question before the House was to concur in **HB 331**.

The Speaker ruled that the Legislator from Fayette 75 could continue her discussion.

Representative Gray moved that **HB 331**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 53, Nays 31**. (See March 29, 2000 roll call on **HB 331** - Appendix.)

HB 331, as amended by the Senate, was passed.

Representative Gray moved that the House concur in Senate Floor Amendment No. 8 Title to **HB 331**. Agreed; and the title was agreed to.

Representative Gray moved that the vote by which **HB 331**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 163, with Floor Amendment attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that the House recede from House Floor Amendment No. 6 to **SB 163**. Agreed.

Representative A. Arnold moved that **SB 163** be passed.

On the roll call the vote was: **Yeas 55, Nays 22**. (See March 29, 2000 roll call on **SB 163** - Appendix.)

SB 163 was passed and the title agreed to.

Representative J. Adams moved that the vote by which **SB 163** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Barrows moved that the vote by which **HB 583** was passed be reconsidered. Agreed.

Representative Stumbo moved that **HB 583** be placed in the Orders of the Day. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 103, HB 176, HB 177, HB 373, HB 488, HB 537, HB 561, HB 585, HB 634, HB 676, HB 693, HB 706, HB 806, HB 808, HB 875, HB 901, HB 911, HB 939, HCR 44,** and **HB 354** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:03 p.m.)

Orders of the Day (Continued)

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 152**: Representatives D. Butler, Chairman; Feeley and Draud.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **SB 113**: Representatives Sims, Chairman; Bowling; Cherry; Treesh and Johns.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 992**: Representatives Jenkins, Chairman; Horlander; Yonts; J. Turner and Heleringer.

Representative Stumbo moved the adoption of Conference Committee Reports on **HB 576, HB 577, HB 677,** and **HB 611**. Agreed.

Recess (Continued)

Representative Stumbo moved that the House recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

HB 103, HB 176, HB 177, HB 373, HB 488, HB 537, HB 561, HB 585, HB 634, HB 676, HB 693, HB 706, HB 806, HB 808, HB 875, HB 901, HB 911, HB 939, HCR 44, and **HB 354** delivered to the Senate and signed by the President. Delivered to the Governor on March 29, 2000, at 6:04 p.m.

HB 181, HB 278, HB 533, HB 824, and **HB 865** delivered to the Senate and signed by the President. Delivered to the Governor on March 29, 2000, at 6:44 p.m.

Senate Message (Continued)

Announcing passage of **HB 58, HB 213, HB 392, HB 454, HB 519, HB 538, HB 544, HB 678, HB 712, HB 843,** and **HJR 113**.

Message in regard to **HB 144**: The Senate has passed **HB 144** by way of Senate Committee Substitute and Senate Committee Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 389**: The Senate has passed **HB 389** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 685**: The Senate has passed **HB 685** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 728**: The Senate has passed **HB 728** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 825**: The Senate has passed **HB 825** with Senate Committee Amendment No. 1 and Senate Committee Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 902**: The Senate has passed **HB 902** by way of Senate Committee Substitute, Senate Floor Amendment No. 1, and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body.

Message in regard to **SB 49**: The Senate has refused to concur in the House Committee Substitute and House Committee Amendment No. 1 Title to **SB 49** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendment.

Message in regard to **SB 77**: The Senate has refused to concur in the House Committee Amendment No. 1 Title and House Floor Amendment No. 2 to **SB 77** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendment.

Message in regard to **SB 113**: The Senate has refused to concur in House Floor Amendment No. 1, House Floor Amendment No. 2 Title, and House Floor Amendment No. 3 to **SB 113** and respectfully returns it with the request that this Honorable Body recede from the Amendments.

Message in regard to **SB 152**: The Senate has refused to concur in the House Committee Substitute, House Floor Amendment No. 1 Title, House Floor Amendment No. 2, and House Floor Amendment No. 3 to **SB 152** and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendments. (Time: 7:15 p.m.)

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 216, HB 248, HB 420, HB 421, HB 453, HB 563, HB 579, HB 667, HB 689, HB 709, HB 725, HB 734, HB 756, HB 757, HB 822, HB 866, HB 887, HB 895, HB 944, HB 999, HCR 47, HCR 88,**

HJR 122, and **HB 830** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -7:45 p.m.)

Report of Committees (Continued)

A Conference Committee Report was filed on **HB 486**. The Committee cannot agree and requests that a Free Conference Committee be appointed.

A Conference Committee Report was filed on **SB 152**. The Committee cannot agree and requests that a Free Conference Committee be appointed.

A Conference Committee Report was filed on **SB 113**.

A Free Conference Committee Report was filed on **HB 629**.

A Free Conference Committee Report was filed on **HB 677**.

Orders of the Day (Continued)

SB 350 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 350** be recommitted to the Committee on Appropriations and Revenue. Agreed.

SB 347, with House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of House Committee Amendment No. 1 to **SB 347**. Agreed.

Representative Riggs moved that **SB 347**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 4**. (See March 29, 2000 roll call on **SB 347** - Appendix.)

SB 347, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 347**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 223, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 223** be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 29 , 2000 roll call on **SB 223** - Appendix.)

SB 223 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 223** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the adoption of Conference Committee Reports on **HB 486, SB 152,** and **SB 113**. Agreed.

SB 15, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of House Floor Amendment No. 1 to **SB 15**. Agreed.

Representative P. Clark moved that **SB 15**, as amended, be passed.

Representative Rasche moved the adoption of House Floor Amendment No. 2 to **SB 15**. Agreed.

Representative P. Clark moved that **SB 15**, as amended, be passed.

On the roll call the vote was: **Yeas 69**, **Nays 27**. (See March 29, 2000 roll call on **SB 15** - Appendix.)

SB 15, as amended, was passed and the title agreed to.

Representative P. Clark moved that the vote by which **SB 15**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report of Committees (Continued)

A Free Conference Committee Report was filed on **HB 677**.

A Free Conference Committee Report was filed on **HB 486**.

Orders of the Day (Continued)

SB 218, with House Committee Amendments and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of Committee Amendment No. 1 to **SB 218**. Agreed.

Representative Lindsay moved the adoption of Committee Amendment No. 2 to **SB 218**. Agreed.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to **SB 218**. Agreed.

Representative Lindsay moved that **SB 218**, as amended, be passed.

Representative Westrom moved that the rules be suspended to act on House Floor Amendment No. 4 to **SB 218**.

Representative Lindsay inquired if House Floor Amendment No. 4 to **SB 218** was a piggyback.

The Speaker ruled that House Floor Amendment No. 4 to **SB 218** was a piggyback.

Representative Lindsay inquired if House Floor Amendment No. 4 to **SB 218** was germane.

The Speaker ruled that House Floor Amendment No. 4 to **SB 218** was germane.

Representative Westrom moved that the rules be suspended to act on House Floor Amendment No. 4 to **SB 218**.

On the roll call the vote was: **Yeas 59**, **Nays 21**. (See March 29, 2000 roll call on the motion that the rules be suspended to act upon House Floor Amendment No. 4 to **SB 218** - Appendix.)

The motion that the rules be suspended to act upon House Floor Amendment No. 4 to **SB 218** was adopted.

Representative Westrom moved the adoption of House Floor Amendment No. 4 to **SB 218**. Agreed.

Representative Lindsay moved that **SB 218**, as amended, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 29, 2000 roll call on **SB 218** - Appendix.)

SB 218, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 218**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report of Committees (Continued)

A Free Conference Committee Report was filed on **SB 152**.

Orders of the Day (Continued)

SB 49, with House Committee Substitute and House Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that the House refuse to recede from House Committee Substitute No. 1 to **SB 49**. Agreed.

Representative Stumbo moved that the House refuse to recede from House Committee Amendment No. 1 Title to **SB 49**. Agreed.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **SB 49**: Representatives R. Adams, Chairman; Worthington; Hoffman; Treesh; T. Turner and Thomas.

Report of Committees (Continued)

A Conference Committee Report was filed on **SB 49**. The Committee cannot agree and requests that a Free Conference Committee be appointed.

Orders of the Day (Continued)

Representative Stumbo moved the adoption of the Conference Committee Report on **SB 49**. Agreed.

SB 77, with House Committee Substitute, House Committee Amendment, and House Floor Amendment attached thereto, and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that the House refuse to recede from the House Committee Substitute No. 2 to **SB 77**. Agreed.

Representative Rasche moved that the House refuse to recede from the House Committee Amendment No. 1 Title and House Floor Amendment No. 2 to **SB 77**. Agreed.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **SB 77**: Representatives Rasche, Chairman; L. Belcher; Thompson and Colter.

Report of Committees (Continued)

A Conference Committee Report was filed on **SB 77**. The Committee cannot agree and requests that a Free Conference Committee be appointed.

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **SB 77**: Representatives Rasche, Chairman; L. Belcher; Thompson and Colter.

Orders of the Day (Continued)

SB 3, with House Floor Amendments attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of House Floor Amendment No. 2 to **SB 3**. Defeated.

Representative Lindsay moved that **SB 3** be laid on the Clerk's Desk. Agreed.

SB 227, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SB 227** be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 29 , 2000 roll call on **SB 227** - Appendix.)

SB 227 was passed and the title agreed to.

Representative Burch moved that the vote by which **SB 227** was passed be reconsidered and said motion be placed on the table. Agreed.

SR 113 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **SR 113** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0.** (See March 29, 2000 roll call on **SR 113** - Appendix.)

SR 113 was adopted.

Representative Palumbo moved that the vote by which **SR 113** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 248, with House Committee Substitute, House Committee Amendment, and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that House Floor Amendment No. 3 to **SB 248** be withdrawn. Agreed.

Representative Ballard moved the adoption of the House Committee Substitute to **SB 248**. Agreed.

Representative Ballard moved that **SB 248**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 29, 2000 roll call on **SB 248** - Appendix.)

SB 248, by way of House Committee Substitute, was passed.

Representative Ballard moved the adoption of House Committee Amendment No. 1 Title to **SB 248**. Agreed; and the title was agreed to.

Representative Ballard moved that the vote by which **SB 248**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 18, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HCR 18** is as follows:

On page 1, line 6, by deleting "113 Stoneybrook Drive" and inserting in lieu thereof "1006 Highlands Drive".

Representative Stumbo moved that the House concur in Senate Committee Amendment No. 1 to **HCR 18**. Agreed.

Representative Stumbo moved that **HCR 18**, as amended by the Senate, be adopted.

On the roll call the vote was: **Yeas 87, Nays 3**. (See March 29, 1998 roll call on **HCR 18** - Appendix.)

HCR 18, as amended by the Senate, was adopted.

Representative Stumbo moved that the vote by which **HCR 18**, as amended by the Senate, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 366, with Senate Committee Amendments and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 366** is as follows:

On pages 12 and 13, by deleting all underlined language from line 23 on page 12 through line 4 on page 13.

The Senate Committee Amendment No. 2 to **HB 366** is as follows:

On page 8, lines 1 through 7, by deleting all underlined language, and by removing the brackets and strikethroughs around "~~[for]~~".

The Senate Committee Amendment No. 3 to **HB 366** is as follows:

On page 14, line 9, by removing the first use of "*or*" and by inserting "***, or operate or be in physical control of a motor vehicle without a functioning ignition interlock device in violation of subsection (1) of Section 28 of this Act***" after the second use of "***Act***";

On page 26, line 13, by inserting after "(2)" the following:

"***Whenever the court grants a person hardship driving privileges under subsection (1) of this section, the court through court order, may:***

(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device, as defined in subsection (1) of Section 27 of this Act;

(b) Require that the person comply with all of the requirements of Section 27 of this Act, except for the requirements found in subsection (2) of Section 27 of this Act; and

(c) Require the person to install an ignition interlock device on every vehicle owned or leased by the person who is permitted to operate a motor vehicle under this section.";

On page 26, line 13, by inserting "***(3)***" before "The court";

On page 28, line 8, by deleting "***Upon***" and inserting "***Unless the court orders installation of an ignition interlock device under Section 27 of this Act, upon***"; and

On page 42, between lines 8 and 9, by inserting the following, and by renumbering subsequent sections accordingly:

"SECTION 27. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section and Sections 17 and 28 of this Act, "ignition interlock device" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting if a driver's breath alcohol concentration, as defined in Section 1 of this Act, exceeds 0.02, as measured by the device.

(2) In lieu of ordering license plate impoundment under Section 19 of this Act of a person convicted of a second or subsequent violation of Section 2 of this Act, the court may order installation of an ignition interlock device as provided in this section as follows:

(a) Except as provided in paragraph (d) of this subsection, at the time that the court revokes a person's license under any provision of Section 5 of this Act other than subsection (1)(a) of Section 5 of this Act, the court shall also order that at the conclusion of the license revocation the person shall be prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device.

(b) 1. The first time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of six (6) months.

2. The second time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

4. The person whose license has been suspended for a second or third violation of Section 2 of this Act shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction for a violation of Section 2 or 7 of this Act. If the court grants permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.

(c) In determining the five (5) year period under paragraph (b) of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in Section 5 of this Act.

(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.

(3) Upon ordering the installation of a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:

(a) Transmit its order and other appropriate information to the Transportation Cabinet;

(b) Direct that the Transportation Cabinet records reflect:

1. That the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device, except as provided in paragraph (d) of subsection (2) of this section; and

2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a

functioning ignition interlock device, as provided in paragraph (d) of subsection (2) of this section;

(c) Direct the Transportation Cabinet to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (d) of subsection (2) of this section applies, the notation shall indicate the exception;

(d) Require proof of the installation of the functioning ignition interlock device and periodic reporting by the person for the verification of the proper functioning of the device;

(e) Require the person to have the device serviced and monitored at least every ninety (90) days for proper functioning by an entity approved by the Transportation Cabinet; and

(f) Require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. The court may establish a payment schedule for the person to follow in paying the cost.

(4) The Transportation Cabinet shall:

(a) Certify ignition interlock devices for use in this Commonwealth;

(b) Approve ignition interlock device installers who install functioning ignition interlock devices under the requirements of this section;

(c) Approve servicing and monitoring entities identified in paragraph (e) of subsection (3) of this section;

(d) Publish and periodically update on the Transportation Cabinet web site a list of the certified ignition interlock devices, the approved ignition interlock installers, and the approved servicing and monitoring entities;

(e) Develop a warning label that an ignition interlock device installer shall place on a functioning ignition interlock device before installing that device. The warning label shall warn of the penalties established in Section 28 of this Act; and

(f) Promulgate administrative regulations to carry out the provisions of this subsection.

SECTION 28. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under subsection (2) of Section 27 of this Act or under subsection (2) of Section 17 of this Act.

(2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in subsection (2) of Section 27 of this Act or under subsection (2)(b) of Section 17 of this Act.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) (a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or

2. Tamper with an installed ignition interlock device with the intent of rendering it defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(4) (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

Section 29. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, ~~[and]~~ 189A.080***, and Section 7 of this Act,*** the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.".

The Senate Floor Amendment No. 4 to **HB 366** is as follows:

On page 14, line 9, by removing the first use of "***or***" and by inserting "***, or operate or be in physical control of a motor vehicle without a functioning ignition interlock device in violation of subsection (1) of Section 28 of this Act***" after the second use of "***Act***";

On page 26, line 13, by inserting after "(2)" the following:

"***Whenever the court grants a person hardship driving privileges under subsection (1) of this section, the court through court order, may:***

(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock

device, as defined in subsection (1) of Section 27 of this Act;

(b) Require that the person comply with all of the requirements of Section 27 of this Act, except for the requirements found in subsection (2) of Section 27 of this Act; and

(c) Require the person to install an ignition interlock device on every vehicle owned or leased by the person who is permitted to operate a motor vehicle under this section.";

On page 26, line 13, by inserting "*(3)*" before "The court";

On page 28, line 8, by deleting "*Upon*" and inserting "*Unless the court orders installation of an ignition interlock device under Section 27 of this Act, upon*"; and

On page 42, between lines 8 and 9, by inserting the following, and by renumbering subsequent sections accordingly:

"SECTION 27. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section and Sections 17 and 28 of this Act, "ignition interlock device" means a device that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting if a driver's breath alcohol concentration, as defined in Section 1 of this Act, exceeds 0.02, as measured by the device.

(2) In lieu of ordering license plate impoundment under Section 19 of this Act of a person convicted of a second or subsequent violation of Section 2 of this Act, the court may order installation of an ignition interlock device as provided in this section as follows:

(a) Except as provided in paragraph (d) of this subsection, at the time that the court revokes a person's license under any provision of Section 5 of this Act other than subsection (1)(a) of Section 5 of this Act, the court shall also order that at the conclusion of the license revocation the person shall be prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device.

(b) 1. The first time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of six (6) months.

2. The second time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period that a person is penalized under this section, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

4. The person whose license has been suspended for a second or subsequent violation of Section 2 of this Act shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction for a violation of Section 2 or 7 of this Act. If the court grants permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.

(c) In determining the five (5) year period under paragraph (b) of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in Section 5 of this Act.

(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.

(3) Upon ordering the installation of a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:

(a) Transmit its order and other appropriate information to the Transportation Cabinet;

(b) Direct that the Transportation Cabinet records reflect:

1. That the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device, except as provided in paragraph (d) of subsection (2) of this section; and

2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (d) of subsection (2) of this section;

(c) Direct the Transportation Cabinet to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (d) of subsection (2) of this section applies, the notation shall indicate the exception;

(d) Require proof of the installation of the functioning ignition interlock device and periodic reporting by the

person for the verification of the proper functioning of the device;

(e) Require the person to have the device serviced and monitored at least every ninety (90) days for proper functioning by an entity approved by the Transportation Cabinet; and

(f) Require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. The court may establish a payment schedule for the person to follow in paying the cost.

(4) The Transportation Cabinet shall:

(a) Certify ignition interlock devices for use in this Commonwealth;

(b) Approve ignition interlock device installers who install functioning ignition interlock devices under the requirements of this section;

(c) Approve servicing and monitoring entities identified in paragraph (e) of subsection (3) of this section;

(d) Publish and periodically update on the Transportation Cabinet web site a list of the certified ignition interlock devices, the approved ignition interlock installers, and the approved servicing and monitoring entities;

(e) Develop a warning label that an ignition interlock device installer shall place on a functioning ignition interlock device before installing that device. The warning label shall warn of the penalties established in Section 28 of this Act; and

(f) Promulgate administrative regulations to carry out the provisions of this subsection.

SECTION 28. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under subsection (2) of Section 27 of this Act or under subsection (2) of Section 17 of this Act.

(2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in subsection (2) of Section 27 of this Act or under subsection (2)(b) of Section 17 of this Act.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) (a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or

2. Tamper with an installed ignition interlock device with the intent of rendering it defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(4) (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

Section 29. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, ~~[and]~~ 189A.080, ***and Section 7 of this Act,*** the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.".

The Senate Floor Amendment No. 7 to **HB 366** is as follows:

On page 42, between lines 8 and 9, to insert the following:

"SECTION 29. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) The only alcohol or substance testing that is subject to refusal or enhancement of penalties provided for in this chapter is:

(a) Breath analysis testing by a machine installed, tested, and maintained by the Commonwealth for that specific purpose at a police station or detention facility;

(b) Blood or urine testing at the request of the officer at a police station, detention facility, or medical facility; or

(c) Combination of tests required in paragraphs (a) or (b) of this subsection.

(2) The results of any breath analysis by an instrument other than one specified in subsection (1) of this section shall be inadmissible in court." and to renumber the ensuing sections accordingly.

Representative Wilkey moved that the House concur in Senate Committee Amendment No. 1 to **HB 366**. Agreed.

Representative Wilkey moved that the House concur in Senate Committee Amendment No. 3 to **HB 366**. Agreed.

Representative Wilkey moved that the House concur in Senate Floor Amendment No. 4 to **HB 366**. Agreed.

Representative Wilkey moved that the House concur in Senate Floor Amendment No. 7 to **HB 366**. Agreed.

Representative Wilkey moved that the House concur in Senate Committee Amendment No. 2 to **HB 366**. Agreed.

Representative Wilkey moved that **HB 366**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 94**, **Nays 4**. (See March 29, 1998 roll call on **HB 366** - Appendix.)

HB 366, as amended by the Senate, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 366**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Message in regard to **HB 371**: The Senate has passed **HB 371** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 8:40 p.m.)

Orders of the Day (Continued)

SB 309 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 309** be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See March 29 , 2000 roll call on **SB 309** - Appendix.)

SB 309 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 309** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 323, with House Floor Amendments attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **SB 323** be passed.

On the roll call the vote was: **Yeas 56**, **Nays 33**. (See March 29 , 2000 roll call on **SB 323** - Appendix.)

SB 323 was passed and the title agreed to.

Representative Collins moved that the vote by which **SB 323** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Message in regard to **HB 517**: The Senate has adopted the Free Conference Committee Report on **HB 517** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 8:55 p.m.)

Orders of the Day (Continued)

HB 144, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 144** is as follows:

HB 144, AN ACT relating to services for persons with mental retardation and other developmental disabilities, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

(1) Assistance and support to citizens of the Commonwealth with mental retardation and other developmental disabilities are necessary and appropriate roles of state government;

(2) The current system of services and supports to persons with mental retardation and other developmental disabilities suffers from a lack of program coordination, funding, controls on quality of care, and review and evaluation;

(3) As part of the review and evaluation, it is necessary to require:

(a) Identification, development, and provision of services and supports for persons with mental retardation and other developmental disabilities using available institutional care as appropriate and integrated with community-based services designed to be inclusive, responsive to individual needs, and protective of the individual's legal rights to equal opportunity;

(b) Review of current funding mechanisms to determine the best method to establish an array of community-based comprehensive services using facility-based outpatient services and supports that are available through public and private sectors including nonprofit and for-profit service providers that will allow persons with mental retardation and other developmental disabilities the opportunity to participate in community life. The review shall include consideration of the availability of residential alternatives, employment opportunities, and opportunities for participation in community-based social and recreational activities; and

(c) Development of funding strategies to promote appropriate use of community-based services and supports that provide:

1. Flexibility for persons with mental retardation and other developmental disabilities;

2. Distribution of available funds among all interested service providers, including nonprofit and for-profit service providers, based on the needs of the person with mental retardation and other developmental disabilities; and

3. Efficiency and accountability to the general public;

(4) Sections 1 to 3 of this Act shall be construed to protect and to promote the continuing development and maintenance of the physical, mental, and social skills of persons with mental retardation and other developmental disabilities; and

(5) Sections 1 to 3 of this Act shall not be construed:

(a) To alter any requirements or responsibilities that are mandated by any state or federal law;

(b) To relieve any organizational unit or administrative body of its duties under state or federal law; or

(c) To transfer among state organizations or administrative bodies any responsibilities, powers, or duties that are mandated by state or federal law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The commissioner of the Department for Mental Health and Mental Retardation Services;

(d) The commissioner of the Department for Medicaid Services;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;

(g) The director of the Developmental Disabilities Council;

(h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(i) Two (2) members of the Senate, appointed by the Senate President; and

(j) Public members, appointed by the Governor within ninety (90) days of the effective date of this Act, as follows:

1. Three (3) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities;

2. Three (3) persons with mental retardation or other developmental disabilities;

3. Two (2) business leaders;

4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and

5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraph 1. and subparagraph 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

(2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.

(3) Members defined in paragraphs (a) to (h) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed.

(4) All public members of the commission shall receive twenty-five dollars ($25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The commission created in Section 2 of this Act shall meet at least quarterly during the 2000-2001 biennium, at least biennially thereafter, or upon the call of the chair, the request of four (4) or more members, or the request of the Governor.

(2) The commission shall serve in an advisory capacity to accomplish the following;

(a) Advise the Governor and the General Assembly concerning the needs of persons with mental retardation and other developmental disabilities;

(b) Develop a statewide strategy to increase access to community-based services and supports for persons with mental retardation and other developmental disabilities. The strategy shall include:

1. Identification of funding needs and related fiscal impact; and

2. Criteria that establishes priority for services for individuals approved for slots that consider timeliness and service needs;

(c) Assess the need and potential utilization of specialized outpatient clinics for medical, dental, and special therapeutic services for persons with mental retardation and other developmental disabilities;

(d) Evaluate the effectiveness of state agencies and public and private service providers, including nonprofit and for-profit service providers in:

1. Dissemination of information and education;

2. Providing outcome oriented services; and

3. Efficiently utilizing available slots and resources, including blended funding streams;

(e) Develop a recommended comprehensive ten (10) year plan for placement of qualified persons in the most integrated setting appropriate to their needs;

(f) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of family members, persons with mental retardation and other developmental disabilities, and advocates in quality assurance efforts; and

(g) Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation for the 2002 General Assembly.

(3) Within six (6) months after the effective date of this Act, the secretary of the Cabinet for Health Services shall present the plan to the Governor and the members of the General Assembly.

(4) The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

(5) The commission shall cease to exist four (4) years after the effective date of this Act unless otherwise reauthorized by the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Supports for Community Living waiver program" means funding from the Department for Medicaid Services to serve individuals with mental retardation or other developmental disabilities who qualify for intermediate care and choose to live in a community-based setting; and

(b) "Slots" means the dedication of provider or financial resources for services to persons with mental retardation or other developmental disabilities.

(2) The Department for Medicaid Services shall develop and implement flexible reimbursement and payment strategies that reflect the individually determined needs for services and supports by persons with mental retardation and other developmental disabilities participating in the Supports for Community Living waiver program.

(3) The Department for Medicaid Services shall allocate slots to the fourteen (14) community mental health regions based on percentage of total population.

(4) The Department for Medicaid Services shall reallocate underutilized slots to address statewide needs and shall reallocate slots in emergency situations to address unmet needs for services and supports.

(5) Within six (6) months after the effective date of this Act, the Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section.

Section 5. KRS 347.010 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

(1) A ***comprehensive and outcome-driven***[~~ complete, effective~~] system of services and ***supports***[~~care~~] provided to persons with developmental disabilities must be ***designed,*** coordinated, consistent, ***and*** monitored[~~ and designed~~] to meet the ***self-determined*** needs of those persons as well as to protect their legal and human rights;

(2) The current system of services and ***supports***[~~care~~] for persons with developmental disabilities needs substantial improvement in order to provide an array of services ***including person-driven community-based services and supports***[~~which allows active treatment and habilitation~~];

(3) It is necessary to require:

(a) The identification,[~~ and evaluation of, and the~~] development,[~~ and~~] provision, ***and evaluation*** of services and ***supports***[~~active treatment~~] for[~~,~~] persons with developmental disabilities;

(b) ***Inter and intra-agency planning, development, implementation, and evaluation of services and supports that are the most community inclusive, responsive to individual needs, and that assure legal and human rights for equal opportunity***[~~Interagency development, coordinated planning and implementation of active treatment and service programs which are the least restrictive and individually appropriate for persons with developmental disabilities, while safeguarding their legal and human rights~~];

(c)[~~ Development and provision of programs in the public and private sectors for the habilitation and active treatment of persons with developmental disabilities; and~~

~~(d)~~] Establishment of an array of ***community-based*** comprehensive services and ***supports, provided by***[~~residential alternatives in the~~] public and private sectors ***that***[~~to~~] allow persons with developmental disabilities the ***right to participate in the life of the community, including residential alternatives, employment, and social and recreational activities***[~~opportunity to live in the least restrictive, individually appropriate environment~~]; and

(d) Funding strategies that promote the development of community-based services and supports that demonstrate:

1. Flexibility for the person with developmental disabilities;

2. Distribution of available funds among all interested service providers based on the needs of the person with developmental disabilities; and

3. Efficiency and accountability to the general public.

(4) The provisions of this chapter shall be construed to protect and promote the continuing development and maintenance of physical, mental, and social skills of persons with developmental disabilities; ***and***

(5) The provisions of this chapter shall not alter requirements and responsibilities mandated under any state or federal act, relieve any organizational unit or administrative body of its duties under ***those***[~~said~~] acts, or transfer among state organizations or administrative bodies any responsibilities, powers, or duties mandated by ***those***[~~said~~] acts.

Section 6. Whereas the current methods of providing access to community-based services and supports to persons with mental retardation and other developmental disabilities are inefficient and ineffective; and whereas there is a fundamental need for a comprehensive evaluation of the efforts of state agencies to provide needed services; and whereas there is a need to increase access to community-based services for persons with mental retardation and other developmental disabilities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Senate Committee Amendment No. 2 Title to **HB 144** is as follows:

By amending the title to read "AN ACT relating to services for persons with mental retardation and other developmental disabilities, and declaring an emergency."

Representative Nunn moved that the House refuse to concur in the Senate Committee Substitute to **HB 144**. Agreed.

Representative Nunn moved that the House refuse to concur in the Senate Committee Amendment No. 2 Title to **HB 144**. Agreed.

Report of Committees (Continued)

A Free Conference Committee Report was filed on **SB 152**.

Orders of the Day (Continued)

HB 389, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 389** is as follows:

HB 389, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.427 is amended to read as follows:

(1) (a) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the Judicial Retirement Plan, and their dependents. For recipients, or dependents, eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for Medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employees' group insurance, and the board may arrange for the recipients to be included in the major state employees group. ***For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (3) of this section.***

(b) For the purpose of this section, the "dependent" of a recipient means the spouse or minor children, or both, of a recipient who is a living former member of the Judicial Retirement Plan, or the minor children of a deceased former member whose surviving spouse is the recipient.

(2) (a) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	Percentage of Premium
240 or more	100%
180 to 239, inclusive	75%
120 to 179, inclusive	50%
48 to 119, inclusive	25%

The foregoing payments shall be made by the fund only if the recipient agrees to pay the remaining, if any, percentage of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.

(b) Notwithstanding any other statute to the contrary, any member with at least forty-eight (48) months of judicial service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in paragraph (a) of this subsection except that the number of months of service credit used in calculating the level of benefits shall be the sum of service credited to the member in all the state-administered retirement systems or plans.

1. Upon request of the member, the Judicial Retirement System shall compute the member's combined service in all the state-administered retirement systems or plans and calculate the portion of the member's premium to be paid by the Judicial Retirement Plan, according to the criteria established in paragraph (a) of this subsection. The state-administered retirement systems or plans shall pay to the Judicial Retirement Plan the applicable percentage of the plan's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement systems or plans divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.
2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

(3) ***The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a***

quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.

(4) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

Section 2. KRS 6.577 is amended to read as follows:

(1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. ***For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (5) of this section.***

(2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan, if the recipient had two hundred forty (240) months or more of service upon retirement. If the recipient had less than two hundred forty (240) months of service, but at least one hundred thirty-two (132) months of service, fifty-five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had at least one hundred twenty (120) months of service, fifty percent (50%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. If the recipient had less than one hundred twenty (120) months of service but at least forty-eight (48) months of service, twenty-five percent (25%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. "Months of service" as used in this section shall not include service added to determine disability benefits.

(4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member.

(5) ***The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.***

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7)~~[(6)]~~Notwithstanding any other statute to the contrary, any member with at least forty eight (48) months of legislative service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.

(a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. The state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

(b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

Section 3. KRS 21.530 is amended to read as follows:

For administrative purposes only, as hereinafter provided, the Legislators' Retirement Plan and the Judicial Retirement Plan shall be coordinated under the name, Judicial Form Retirement System, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the Governor, one (1) by the President of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) by the president and speaker jointly. The appointments by the Governor shall not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans. The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one (1) of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the Judicial Retirement Board in office on July 1, 1980, shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the Governor. Vacancies shall be filled by the appointing authority for the unexpired term. The members shall annually elect a chairman. Board members who do not receive an annual salary from the State Treasury, in another capacity, shall receive ***an amount equal to the per diem compensation paid to members of the General Assembly***[~~seventy-five dollars ($75)~~] for each day they are in session. All members shall be reimbursed for their necessary expenses.

Section 4. KRS 21.450 is amended to read as follows:

(1) The benefits provided by KRS 21.350 to 21.510 to be paid shall be funded through contract with a reputable life insurance company authorized to do business in this state, or through investment and reinvestment of funds in securities which, at the time of making the investment, are by law permitted for the investment of funds by fiduciaries in this state, or through a combination of such methods. To the extent that funding is provided through insurance contract, no contributions, payments or premiums shall be subject to any tax on insurance premiums or annuity considerations. The investment committee for the judicial retirement fund shall be trustee of any and all funds contributed or appropriated to the retirement system, and shall have sole authority to make insurance contracts or investments.

(2) The board members or any investment adviser shall discharge their duties with respect to the funds of the retirement system solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with the laws, regulations and other instruments governing the funds.

(3) Any accrual of benefits provided under this or any other applicable statute shall be no less than the benefit adjustment provided for in KRS 21.405(4) from the date of the last establishment of that benefit.

Representative A. Arnold moved that the House concur in the Senate Committee Substitute to **HB 389**. Agreed.

Representative A. Arnold moved that **HB 389**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 4**. (See March 29, 2000 roll call on **HB 389** - Appendix.)

HB 389, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 389**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 728, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 728** is as follows:

On page 2, line 2, by deleting the word "***and***", and

On page 2, line 3, by adding the word "***and***" after the existing text, and

On page 2, after line 3 but before line 4, by adding the following text:

"*d. The Kentucky Authority for Educational Television;*", and

On page 2, line 12, after the word "***Authority,***", by inserting the words "***the Kentucky Authority for Educational Television,***", and

On page 4, line 2, after the word "***Authority,***", by inserting the words "***the Kentucky Authority for Educational Television,***".

Representative Geveden moved that the House concur in Senate Committee Amendment No. 1 to **HB 728**. Agreed.

Representative Geveden moved that **HB 728**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 29, 1998 roll call on **HB 728** - Appendix.)

HB 728, as amended by the Senate, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 728**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 144, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Lee moved to reconsider the vote by which the House refused to concur on the Senate Committee Substitute to **HB 144**.

On the roll call the vote was: **Yeas 91, Nays 0**. (See , 2000 roll call on the motion to reconsider the vote by which the House refused to concur on the Senate Committee Substitute to **HB 144** - Appendix.)

The motion to reconsider the vote by which the House refused to concur on the Senate Committee Substitute to **HB 144** was adopted.

Representative Lee moved that the House concur in the Senate Committee Substitute to **HB 144**. Agreed.

Representative Nunn moved that **HB 144**, by way of Senate Committee Substitute, be passed be reconsidered.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 29, 1998 roll call on **HB 144** - Appendix.)

HB 144, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Nunn moved that the vote by which the House refused to concur on the Senate Committee Amendment No. 2 Title to **HB 144** be reconsidered. Agreed.

Representative Nunn moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 144**. Agreed.

Representative Nunn moved that the vote by which **HB 144**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 685, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 685** is as follows:

On page 1, after line 7, insert:

"Section 2. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, ***or having reason to believe that it has been stolen,*** unless the property is received, retained, or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is three hundred dollars ($300) or more, or unless the property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony.".

Representative Lindsay moved that the House concur in Senate Floor Amendment No. 1 to **HB 685**. Agreed.

Representative Lindsay moved that **HB 685**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 86, Nays 4**. (See March 29, 2000 roll call on **HB 685** - Appendix.)

HB 685, as amended by the Senate, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 685**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 825, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 825** is as follows:

On page 4, beginning on line 8, by removing Section 3 in its entirety.

The Senate Committee Amendment No. 2 Title to **HB 825** is as follows:

On page 4, beginning on line 8, by removing Section 3 in its entirety.

Representative Stacy moved that the House concur in Senate Committee Amendment No. 1 to **HB 825**. Agreed.

Representative Stacy moved that **HB 825**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 29, 1998 roll call on **HB 825** - Appendix.)

HB 825, as amended by the Senate, was passed.

Representative Stacy moved that the House concur in Senate Committee Amendment No. 2 Title to **HB 825**. Agreed; and the title was agreed to.

Representative Stacy moved that the vote by which **HB 825**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 902, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 902** is as follows:

HB 902, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) During the first five (5) years after the effective date of the agreement an advanced technology start-up company may transfer on an annual basis any or all of the balance of rent and start-up costs, as determined in KRS 154.24-130(1), (2), and (3), not taken by the approved company in the form of income tax credits or wage assessments to:

(a) Landlords in return for reductions in occupancy costs, including rent and parking fees;

(b) Lenders in return for financial concessions, including interest rate reductions; or

(c) Equity investors.

(2) The persons or entities to which the balance of rent and start-up costs are transferred shall not be an affiliate, as defined in KRS 154.22-010, of the approved company. The person or entity to which the balance of rent and start-up costs is transferred shall be entitled to a credit against the taxes that would otherwise be due to the Commonwealth under KRS 141.020, 136.320, 136.330, and 136.505 in the year in which the rent and start-up costs are transferred as limited by the provisions of this section. Evidence of the transfer shall be provided on forms developed by the cabinet in consultation with the Revenue Cabinet. Rent and start-up costs transferred by the approved company and claimed by the transferee in the form of credits shall be treated as having been taken by the approved company for purposes of KRS 154.24-110(1)(a).

SECTION 2. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this subchapter, a local government that has approved in lieu of credits for an advanced technology start-up company may provide an additional inducement of up to one-half percent (0.5%) of employees' gross wages for the duration of the agreement, exclusive of any noncash benefits provided to an employee, as an incentive for the company to locate in a specific geographic area within the local jurisdiction.

SECTION 3. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this subchapter, an advanced technology start-up company located in a qualified county as defined in KRS 154.22-010(16) shall be eligible for, and shall be eligible to transfer under Section 1 of this Act, rent and start-up costs equal to one and one-half (1-1/2) times the amount of rent and start-up costs for which it would otherwise be eligible under this subchapter.

SECTION 4. A NEW SECTION OF SUBCHAPTER 24 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations to allow preliminary approval of the application for inducements by an advanced technology start-up company within thirty (30) days of the cabinet's receipt of a properly completed application.

Section 5. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) ***"Advanced technology start-up company" means an eligible company:***

(a) Formed within two (2) years prior to the date of the application to the authority for inducements or having fewer than twenty-five (25) employees as of the date of application;

(b) Having a capitalization of less than one million dollars ($1,000,000) as of the date of the application;

(c) Paying wages greater than one hundred thirty-five percent (135%) of the average state wage to more than one-half (1/2) of its employees; and

(d) Having as its primary business:

1. The sale of goods or services on the Internet;

2. The design, development, or production of computers, or computer software, programs, or components;

3. The design, development, or production and sale of processes or products in the fields of information technology, medicine, engineering, electronics, electronic commerce, telecommunications, graphics, optics, chemistry, biotechnology, or pharmacology; or

4. The development and sale of products or processes, or combinations of products, processes, and services, the principal value of which is attributable to intellectual property;

(2) "Agreement" means any agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;

(3)[~~(2)~~]"Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;

(4)[~~(3)~~]"Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars ($10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;

(5)[~~(4)~~]"Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;

(6)[~~(5)~~]"Authority" means the Kentucky Economic Development Finance Authority created in KRS 154.20-010;

(7)[~~(6)~~]"Commonwealth" means the Commonwealth of Kentucky;

(8)[~~(7)~~]"Economic development project" or "project" means a service or technology activity conducted by an approved company;

(9)[~~(8)~~]"Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(10)[~~(9)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(11)[~~(10)~~] "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

(12)[~~(11)~~] "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(13)[~~(12)~~] ***"Information technology" means the design, development, and production of prepackaged computer software or hardware; developing or modifying computer hardware; developing or modifying computer software and packaging***

or bundling the software with purchased computer hardware to create and market an integrated system for specific application; providing computer processing and data preparation services; providing on-line information retrieval service; providing on-site management and operation of computer and data processing facilities; or providing on-line information access services.

(14) "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(15)~~[(13)]~~ "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(16)~~[(14)]~~ "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;

(17)~~[(15)]~~ "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(18)~~[(16)]~~ "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and

(19)~~[(17)]~~ "Start-up costs" means the cost of furnishing and equipping the building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.24-130 ***and, for an advanced technology start-up company, direct costs, including labor costs of research and development in the first two (2) years after preliminary approval***.

Section 6. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include, but not be limited to, the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;

(2) The economic development project shall result in the creation by the eligible company of a minimum of twenty-five (25) new full time jobs***, or for businesses as described in subsection (1)(d) of Section 5 of this Act, a minimum of five (5) new full-time jobs with wages greater than one hundred thirty-five percent (135%) of the average state wage as determined by the cabinet,*** for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth within one (1) year of the date of the final resolution authorizing the economic development project. The authority may extend this one (1) year period upon the written application of an eligible company requesting an extension;

(3) Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

(4) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 7. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year period after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdiction, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and who are subject to the Kentucky income tax is less than ***the number of jobs as set forth in subsection (2) of Section 6 of this Act***[~~twenty-five (25)~~], or in the case of an existing Kentucky business the approved company fails to maintain the increase ***in the full-time employees equal to***[~~of~~] at least ***the number of jobs as set forth in subsection (2) of Section 6 of this Act***[~~twenty-five (25) full-time employees~~] who are residents of the Commonwealth and who are subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and who are subject to the Kentucky income tax equals or exceeds ***the number of jobs as set forth in subsection (2) of Section 6 of this Act***[~~twenty-five (25)~~]; or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;

(c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and

(d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority***, except as provided in Section 1 of this Act***.

Section 8. KRS 154.24-140 is amended to read as follows:

(1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in KRS 154.24-010 to 154.24-150.

(2) If an existing business becomes an approved company, the authority shall determine a base level of employment, a base level of state income tax liability, and a base level of services of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period. Notwithstanding the determination of a base level of employment, no employee of the existing business who is an employee of such business prior to the date of the preliminary resolution of the authority as prescribed in KRS 154.24-100 shall be subject to assessment.

(3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.

(4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment an increase at the site of the economic development project of at least ***the number of jobs as set forth in subsection (2) of Section 6 of this Act which are filled by***[~~twenty-five (25)~~] full-time employees who are residents of the Commonwealth and who are subject to the Kentucky income tax.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.

(6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 902** is as follows:

On page 1, line 17, after "***KRS 141.020,***" by inserting "***141.040,***".

The Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 902** is as follows:

On page 10, after line 24, by inserting:

"Section 9. KRS 154.26-010 is amended to read as follows:

As used in KRS 154.26-015 to 154.26-100, unless the context clearly indicates otherwise:

(1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)(d)2.b., among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;

(4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;

(5) "Approved costs" means:

  (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

  (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

  (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

  (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

  (e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

  (f) All other costs comparable with those described above;

(6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;

(7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority

pursuant to KRS 154.26-080;

(11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(12) "Inducements" means the Kentucky ~~[income]~~ tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;

(13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(14) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter; and

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

Section 10. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant;

(b) In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403; ~~[plus]~~

2. A credit against the Kentucky license tax imposed by KRS 136.070 on the capital of the approved company generated by or arising out of the economic revitalization project as determined in accordance with Section 12 of this Act; plus

3.~~[2.]~~ The aggregate assessment withheld by the approved company in each year;

(c) The ~~[income]~~ tax credit allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or fifty percent (50%) of the approved cost that has not yet been recovered, which fifty percent (50%) shall be reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the entire fifty percent (50%) of the approved cost has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state ~~[income]~~ tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section;

(d) The agreement shall provide that:

1. The term shall not be longer than the earlier of:

a. The date on which the approved company has received inducements or withholds assessments equal to fifty percent (50%) of the approved costs of its economic revitalization project; or

b. Ten (10) years from the date of the execution of the agreement.

2. Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

a. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

b. In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

3. If in any fiscal year of the approved company during which the agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds fifty percent (50%) of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds fifty percent (50%) of the approved costs then expended, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(e) All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.

(3) If the approved company elects to utilize the assessment, neither the appropriation agreement, if it is so used, nor the agreement shall be executed unless the assessment is approved by a majority of the employees voting. If the approved company elects not to utilize the assessment, no employee vote shall be required for the execution of the agreement.

(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company.

(5) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed.

(6) Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 11. KRS 154.26-100 is amended to read as follows:-

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, six percent (6%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project. However, if the appropriation agreement is consummated, the assessment shall be five percent (5%) of each employee's gross wages subject to the income tax imposed by KRS 141.020.

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to two-thirds (2/3) of the assessment; or if the appropriation agreement is consummated, the credit shall be equal to four-fifths (4/5) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-sixth (1/6) of the assessment, unless the appropriation agreement is consummated.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this

section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet shall certify to the authority the Kentucky ~~[income]~~ tax liability for the preceding fiscal year of the approved company for which the return was filed of each approved company with respect to an economic development project financed through the issuance of bonds, loans, or other financing incurred in connection with the economic development project and the amounts of any tax credits and job revitalization assessment fees taken pursuant to KRS 154.26-010, 154.26-080, 154.26-090, and this section.

Section 12. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved in accordance with KRS 154.26-010 which is subject to license tax in accordance with KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

(2) An approved company shall:

(a) Compute the company's total license tax due as provided by KRS 136.070;

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.

(3) The capital attributable to an economic revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(4) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100."

Representative Geveden moved that the House concur in the Senate Committee Substitute to **HB 902**. Agreed.

Representative Geveden moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 902**. Agreed.

Representative Geveden moved that the House concur in Senate Floor Amendment No. 2 to the Senate Committee Substitute to **HB 902**. Agreed.

Representative Geveden moved that **HB 902** by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 29, 2000 roll call on **HB 902** - Appendix.)

HB 902, by way of Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 902**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 371, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 371** is as follows:

HB 371, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) ***It is an unfair trade practice for an insurer that offers multiple health benefit plans to require a health care provider, as a condition of participation in a health benefit plan of the insurer, to participate in any of the insurer's other health benefit plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract provision violating this subsection is void.***

(5) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(6)[~~(5)~~]The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17A-470. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(7)[~~(6)~~]The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Representative DeWeese moved that the House concur in the Senate Committee Substitute to **HB 371**. Agreed.

Representative DeWeese moved that **HB 371**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 29, 2000 roll call on **HB 371** - Appendix.)

HB 371, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative DeWeese moved that the vote by which **HB 371**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 739, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 739** is as follows:

HB 739, AN ACT relating to retired teachers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees is authorized to provide a supplemental retirement benefit plan for the sole purpose of enabling the employer to apply the same formula for determining benefits payable to all employees covered by the retirement system, whose benefits under the retirement system are limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. This plan is intended to constitute a qualified governmental excess benefit plan as described in Section 415 of the Internal Revenue Code.

(2) The board of trustees shall administer this plan and have full discretionary fiduciary authority to determine all questions in connection with the plan. The board of trustees may adopt procedural rules and administrative regulations and may employ and rely on any legal counsel, actuaries, accountants, and agents as it deems advisable to assist in the administration of this plan.

(3) All members and retired former members in the retirement system shall be eligible to participate in this plan whenever their benefits under the retirement system would exceed the limitation on benefits imposed by Section 415 of the Internal Revenue Code.

(4) On or after the effective date of this plan, the employer shall pay to each eligible member in the retirement system who retires on or after that date and to each former member who retired before that date and his or her beneficiaries a supplemental pension benefit, equal to the amount by which the benefit that would have been payable under the retirement system, without regard to any provision therein incorporating the limitation on benefits imposed by Section 415 of the Internal Revenue Code, exceeds the benefit actually payable, taking into account the limitation imposed on the retirement system by Section 415 of the code. These supplemental pension benefits shall be computed and payable under the same terms and conditions and to the same person as the benefits payable to, or on account of, an eligible member under the retirement system.

(5) Benefits payable under this plan shall not be subject to the dollar limit applicable to eligible deferred compensation plans under Section 457 of the Internal Revenue Code, nor to the "substantial risk or forfeiture" rules of Section 457(f) of the code applicable to ineligible deferred compensation plans. In addition, benefits payable under this plan shall not be taken into account in determining whether any other plan of the employer is an eligible deferred compensation plan under Section 457 of the code.

(6) Funding of benefits payable under this plan shall be provided by the state, as employer, and shall be segregated from funds that are maintained by the retirement system for payment of the regular benefits provided by the retirement system. The employer may establish a grantor trust for payment of benefits provided under this plan, with the employer treated as "grantor" thereof for purposes of Section 677 of the Internal Revenue Code. The rights of any person to receive benefits under this plan are limited to those of a general creditor of the employer.

SECTION 2. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in Section 16 of this Act.

(2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.

(3) All retired members of the retirement system who are approved by the retirement system for full-time reemployment as provided in Section 16 of this Act shall be eligible to participate in the plan.

(4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in Section 16 of this Act.

(5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.

(6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section and Section 16 of this Act, "critical shortage area" means a lack of certified teachers in particular subject areas, in grade levels, or in geographic locations at the elementary and secondary level, as determined annually by the commissioner of education. The commissioner may use any source considered reliable including, but not limited to, data provided by the Education Professional Standards Board and local education agencies to identify the critical shortage areas.

(2) The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to be used to appoint retired teachers and administrators to positions in critical shortage areas under this section and Section 16 of this Act. The administrative regulations shall assure that a retired teacher or administrator shall not be hired until the superintendent assures the commissioner of education that the superintendent has made every reasonable effort to recruit an active teacher or administrator for the position on an annual basis. The commissioner of education shall report members reemployed under this section to the Kentucky Teachers' Retirement System.

(3) If a local school district needs a person to fill a critical shortage position after reaching its quota established under Section 16 of this Act, the commissioner of education, with the approval of the executive director of the Kentucky Teachers' Retirement System, may allow the district to exceed its quota if the statewide quota has not been met.

SECTION 4. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by rolling over funds from a previous plan qualified under Section 401(a) or 401(k) of the Internal Revenue Code to the extent that rollovers are permitted by the rules set forth in the Internal Revenue Code. The rollovers may be made directly from a

previous qualified plan or through a conduit individual retirement account as permitted by the rules set forth in the Internal Revenue Code.

(2) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by transferring funds directly from a retirement plan maintained by the Commonwealth of Kentucky and qualified under Section 401(a) or 401(k) of the Internal Revenue Code, to the extent that transfers are permitted by the rules set forth in the Internal Revenue Code.

(3) The amount of any transfer or rollover purchase as permitted under subsections (1) and (2) of this section, excluding that portion credited to the medical insurance fund under subsection (5) of Section 8 of this Act, shall be credited to the individual member's account and shall be considered accumulated contributions of the member.

Section 5. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;

(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;

(m) The Department of Vocational Rehabilitation;

(n) The Kentucky Educational Collaborative for State Agency Children;

(o) The Governor's Scholars Program;

(p) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(q) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System; and

(r) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;~~[and]~~

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis***; and***

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in Section 7 of this Act.

Section 6. KRS 161.250 is amended to read as follows:

(1) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the chief state school officer, the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex-officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Section 7. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of Actuaries in Public Practice or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each six (6) year period after the first year of operation of the system, the actuary shall make an actuarial investigation into the actuarial assumptions used, including, but not limited to, mortality, earnable interest, and service and compensation of the members and beneficiaries of the retirement system; make a valuation of the assets and liabilities of the funds of the system; and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such investigations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550. At least once in each two (2) year period

the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(2) Actuarial factors ***and actuarial cost factor tables*** in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees ***by resolution and implemented without the necessity of an administrative regulation.***~~[, but]~~ The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value. ***Effective July 1, 1992, the***~~[For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one-half (1 1/2) percentage points above the assumed rate of salary increase. Thereafter, this]~~ spread between investment and salary assumptions shall be reviewed and adjusted at the time of actuarial valuation, based upon the most recent five (5) year experience of the system.

(3) A copy of each actuarial investigation and valuation shall be forwarded to the Legislative Research Commission no later than ten (10) days after receipt by the board.

Section 8. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, survivor benefits, and death benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520, 161.525, and 161.655;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520, 161.525, and 161.655. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate~~[up to a maximum of one and sixty-five hundredths percent (1.65%) of]~~ the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to

the medical insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year.

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program.

(8) The supplemental retirement benefit fund shall consist of those funds contributed by the member and the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program.

(9) The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2).

Section 9. KRS 161.500 is amended to read as follows:

(1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days of a one hundred eighty-five (185) day contract for a regular school or fiscal year. In the event a member is paid for less than one hundred eighty (180) days, the member may purchase credit according to administrative regulations established by the board of trustees. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.

(2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.

(3) Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.

(4) No service credit shall be granted in the Teachers' Retirement System for service that has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

Section 10. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment

without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. The member shall pay the full actuarial cost of ***this***[~~the~~] service in the military reserves or the National Guard ***as provided in subsection (22) of Section 5 of this Act***. Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 11. KRS 161.5465 is amended to read as follows:

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.230 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as ***provided in subsection (22) of Section 5 of this Act***[~~determined by the Teachers' Retirement System~~]. The payment shall not be picked up by the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597.

Section 12. KRS 161.548 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed in a regional community mental health and mental retardation service program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system, may obtain credit for the period of his service in the regional community mental health and mental retardation program by paying to the Teachers' Retirement System the full ***actuarial*** cost of the service credit purchased, as ***provided in subsection (22) of Section 5 of this Act***[~~determined by the system~~]. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1).[~~Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment.~~] The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

Section 13. KRS 161.549 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by paying to the Teachers' Retirement System the full ***actuarial*** cost of the service credit purchased, as ***provided in subsection (22) of Section 5 of this Act***[~~determined by the system~~]. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

Section 14. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ***2002***[~~2000~~]:

(a) Cost of Living Allowance	***2000-2001***[~~1998-1999~~]	Each Succeeding Fiscal Year
1986-1988	$4,465,400	[~~$4,465,400 through 2000-2001~~]

			~~[and]~~ $2,331,300 in 2001-2002
	1988-1990	$5,761,700	$5,761,700 through 2002-2003 and $2,972,700 in 2003-2004
	1990-1992	$4,901,700	$4,901,700 through 2004-2005 and $2,486,800 in 2005-2006
	1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
	1994-1996	$6,142,000	$6,142,000 through 2010-2011
	1996-1998	$4,459,000	$4,459,000 through 2010-2011
	1998-2000	***$15,333,900***~~[$7,395,300]~~	$15,333,900 through 2012-2013 and $7,938,600 through 2013-2014
	2000-2002	***$2,311,500***	***$6,132,100 through 2001-2002*** ***and*** ***$12,511,400 through 2014-2015*** ***and*** ***$7,227,700 in 2015-2016***
(b)	Minimum Value Annuities	***2000-2001***~~[1998-1999]~~	Each Succeeding Fiscal Year
	1986-1988	$1,227,000	~~[$1,227,000 through 2000-2001]~~ ~~[and]~~ $1,020,400 in 2001-2002
	1988-1990	$1,718,200	$1,718,200 through 2002-2003 and $879,500 in 2003-2004
	1990-1992	$2,246,900	$2,246,900 through 2004-2005 and $1,232,100 in 2005-2006
	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through 2008-2009
(c)	Sick Leave Allowance	***2000-2001***~~[1998-1999]~~	Each Succeeding Fiscal Year
	1998-2000	***$5,140,000***	***$5,140,000 through 2012-2013*** ***and*** ***$2,905,600 through 2013-2014***
	2000-2002	***$3,698,800***	***$7,886,400 through 2014-2015*** ***and*** ***$4,187,600 in 2015-2016***
		~~[$3,657,000~~	~~$7,828,000 in 1999-2000]~~ ~~[$7,828,000 through 2012-2013]~~ ~~[and]~~ ~~[$4,171,000 through 2013-2014]~~

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 15. KRS 161.595 is amended to read as follows:

(1) Upon service retirement, a member of the Teachers' Retirement System may obtain credit for all or any part of the service

otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of ***the full actuarial cost of the service credit purchased as defined in subsection (22) of Section 5 of this Act***~~[such amount or amounts as are actuarially determined to be equal to the increased liability of the Teachers' Retirement System by virtue of such additional service credit.]~~ Such payments shall not be picked up, as described in KRS 161.540(2).

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

Section 16. KRS 161.605 is amended to read as follows:

(1) Retired members may perform substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation based on a standard salary schedule adopted by a district for all substitute teachers without reduction in retirement annuities.

(2) A retired member may be employed as a part-time or temporary teacher in the public schools for a period not to exceed the equivalent of one hundred (100) days in any one (1) school year.

(3) Retired members may be employed part-time or temporarily in a nonteaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in any one (1) school year in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the one hundred (100) day limitation in this subsection. The board of trustees shall determine if employment in a nonteaching position qualifies for an exemption under this subsection.

(4) Members retired from an agency listed in KRS 161.220(4)(b) may be employed in a part-time teaching capacity by one (1) of the universities participating in the Teachers' Retirement System, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year.

(5) Calculation of the number of days for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service.

(6) When a retired member returns to employment as a part-time teacher or in a nonteaching capacity as provided in subsections (2), (3), and (4) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for nonuniversity and university members.

(7) The board of trustees shall provide for reemployment of retired members as full-time teachers or in a nonteaching capacity under the following conditions:

(a) A retired teacher or administrator may return to full-time teaching in a position that has been determined by the commissioner of education to be a critical shortage area as defined in Section 3 of this Act and for which the person is certified. When the commissioner of education certifies to the retirement system that qualified applicants are not available to fill teaching or administrative positions in critical academic subject areas, grade levels, or geographic areas, local school districts may employ, as full-time employees, during a school fiscal year, up to a maximum of two (2) retired members, or one percent (1%) of the total active members of the retirement system in a school district, whichever is greater. Retired members who are reemployed in a full-time position covered by the retirement system shall be rehired on a one (1) year contract in a district other than the one from which they retired following an absence of at least three (3) months or in the same district from which they retired following an absence of at least one (1) year.

(b) Retired members reemployed under this section shall remain eligible to receive their retirement annuity.

(c) Retired members reemployed under this subsection shall waive their health insurance coverage with the retirement system during the period of reemployment and receive health insurance coverage that is provided to regular full-time employees of the district.

(d) Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at rates determined by the retirement system's actuary that reflect accrued liability for nonuniversity members.

(e) Retirees who are reemployed under this provision shall make retirement contributions to the retirement system at rates specified under KRS 161.540 and the employer shall make contributions to the retirement system at rates specified under KRS 161.550. The member's entire contribution and a matching amount from the employer's contribution shall be placed in a separate defined contribution fund administered by the retirement

system, with annual interest applied at the actuarially assumed rate. When the retiree's reemployment terminates, the total contributions with interest will be paid in a lump sum or on a monthly straight life basis to the retiree. If the member dies before retiring, the designated beneficiary shall receive a refund, and if there is a remaining balance at the death of the member after retirement, it shall be paid to the beneficiary designated by the member for this benefit.

(f) The provisions pertaining to the reemployment of retired members as full-time employees shall be granted by the board of trustees when it is deemed necessary to assist school districts in filling teaching or nonteaching positions in critical academic or geographic areas and when doing so would not create a significant negative impact on the funding status of the retirement system. The provisions of this subsection are optional with the board of trustees and shall not be covered under KRS 161.714.

Section 17. KRS 161.607 is amended to read as follows:

(1) Any member of the Teachers' Retirement System who enters employment covered by the Kentucky Employees Retirement System, the State Police Retirement System, or the County Employees Retirement System, prior to July 1, 1976, may retain membership in the Teachers' Retirement System instead of joining the new system.

(2) Retention of membership in the Teachers' Retirement System by any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System shall be effected by conforming with KRS 61.680(4)(c). Members of the General Assembly who retain membership shall make retirement contributions based upon their annual compensation as defined under KRS 161.220 or on their creditable compensation as defined under KRS 61.510, whichever is the larger amount. Service as a member of the General Assembly may be used to meet the service requirements of KRS 61.680(2)(a)~~[and 161.510]~~ regardless of the system to which contributions are made by the member.

(3) Any member of the Teachers' Retirement System entering employment as described in subsection (1) of this section must exercise the option within ninety (90) days of the beginning of such employment.

(4) Persons who enter service covered by the Teachers' Retirement System prior to July 1, 1976, and who hold membership in a Kentucky retirement system financed in whole or part with public funds may retain membership in that system providing the statutes and regulations governing said system make continued membership possible.

(5) Any person who has elected an option provided in this section may cancel such election and gain membership in the system which normally covers the position in which currently employed, provided that such cancellation of option election must be completed prior to January 1, 1977.

Section 18. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

  (a) For retirements effective July 1, 1998, and thereafter, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed at state colleges or universities that participate in the Teachers' Retirement System shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

  (b) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, 1990, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one and one-half percent (1.5%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than ***three hundred twenty-five dollars ($325) effective July 1, 2000, and three hundred thirty-five dollars ($335) effective July 1, 2001***~~[three hundred dollars ($300) effective July 1, 1998, and not less than three hundred ten dollars ($310) effective July 1, 1999]~~, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2000***~~[1998]~~, the monthly allowance of each member retired for at least one (1) year, and each recipient of a retirement option of the retired member shall be increased in an amount not to exceed ***eight-tenths of one percent (0.8%)***~~[one and one-half percent (1.5%)]~~ of the monthly allowance in effect the previous month. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2000-2002***~~[1998-2000]~~ biennium budget appropriation.

(6) Effective July 1, ***2001***[~~1999~~], the monthly allowance of each member retired for at least one (1) year, and each recipient of a retirement option of the retired member shall be increased in an amount not to exceed ***one percent (1.0%)***[~~one and one-half percent (1.5%)~~] of the monthly allowance in effect the previous month. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2000-2002***[~~1998-2000~~] biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code as enacted in 1988.

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall ***not be used in determining a member's regular retirement annuity but shall be used in determining retirement allowance payments under the supplemental retirement plan of the retirement system which is intended to constitute a qualified governmental excess benefit plan as provided in Section 415 of the Internal Revenue Code***[~~be disregarded~~]. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 19. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active teacher for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 161.600.

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(9) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

(7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(9) shall be based on the full actuarial cost as defined in subsection (22) of Section 5 of this Act.

Section 20. KRS 161.655 is amended to read as follows:

(1) Effective July 1, ***2000***[~~1998~~], ***the Teachers' Retirement System shall provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance policy shall be payable*** upon the death of a member retired for service or disability[~~, a death benefit of three thousand dollars ($3,000) shall be paid~~] to the member's estate or to a party designated by the member on a form prescribed by the retirement system. ***The Teachers' Retirement System shall provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance policy shall be payable*** upon the death of an active contributing member[~~, a death benefit of two thousand dollars ($2,000) shall be paid~~] to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Application for ***payment of life insurance proceeds***[~~the death benefit~~] shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the ***coverage and payment of proceeds by the life insurance benefit***[~~payment of death benefits~~] under this section.

(2) Suit or civil action shall not be required for the collection of the ***proceeds of the life insurance***[~~death~~] benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the ***proceeds of the life insurance***[~~death~~] benefit.

Section 21. KRS 161.675 is amended to read as follows:

(1) ***The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage by health maintenance organizations as defined in KRS 18A.225 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65), to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225***[~~(a) The board of trustees shall enter into contracts with insurance carriers or other health care providers for the purpose of providing a program of hospital and medical insurance coverage to members who are age sixty-five (65) or older and retired for service.~~

~~(b) The board of trustees may enter into contracts with insurance carriers or other health providers for the purpose of providing a broad program of hospital and medical insurance coverage to members below age sixty-five (65) who are retired for service or disability and to the surviving spouse of deceased members who are eligible to receive the member's retirement benefits as provided in KRS 161.525.~~

~~(c) The board of trustees may offer, on a cost basis, coverage of spouses and dependents not eligible for regular coverage~~].

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage ***and eligibility conditions*** to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS[~~ 161.510 and~~] 161.607(2), to qualify for the coverage. The board of trustees shall offer coverage to the disabled child of a retired member regardless of the disabled child's age if the retired member pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) ***All expenses for benefits under this section shall be paid from the funding provisions contained in subsection (5) of Section 8 of this Act, premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.***

(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible recipients of a retirement allowance in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible recipients of a retirement allowance. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible recipients of a retirement allowance. In order to qualify for health insurance supplements made by the retirement system, the recipient of a supplement payment must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible retirees not eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.

(c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of a retired member, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for Federal Social Security disability benefits.

(5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(6) ***The board of trustees may approve health insurance supplement payments to eligible retirees or recipients who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by retirees for their individual coverage. Eligible retirees or recipients are those retirees or recipients who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the retiree lived in Kentucky. Eligible retirees or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.***

(7)[~~(4)~~]Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(8)[~~(5)~~]The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(9)[~~(6)~~]Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

Section 22. The following KRS section is repealed:

161.510 Prior service allowed new members.

Section 23. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2000.

Representative Rasche moved that the House concur in the Senate Committee Substitute to **HB 739**. Agreed.

Representative Rasche moved that **HB 739**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See March 29, 2000 roll call on **HB 739** - Appendix.)

HB 739, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 739**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 702** be recommitted to the Committee on Appropriations and Revenue. Agreed.

HB 636, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 636** is as follows:

HB 636, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "Fund" shall mean the "Policemen's and Firefighter's Retirement Fund of the .... Urban-County Government";

(2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;

(3) "Department" shall mean the police department or the fire department of a government;

(4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;

(5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;

(6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;

(7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(9) "Total service" shall mean prior service, membership service, and ***service credit purchased by a member as provided in Section 2 of this Act***~~[military service]~~;

(10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;

(11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;

(12) "Occupational death" shall mean death due to occupational causes, including, but not limited to, injury or disease;

(13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);

(14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

(15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;

(16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;

(17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education;~~[and]~~

(18) "Mayor," "commissioner of finance," "commissioner of public safety," and "director of ***human resources***~~[personnel]~~" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described***; and***

(19) "Salary" means the member's actual base rate of pay and any other compensation that the government chooses to include. "Salary" may include longevity pay, training incentive pay, and hazardous duty and special duty pay but shall exclude uniform and equipment allowances, uniform maintenance allowances, education incentive pay, annual payments for excess accumulated sick leave credit, compensation for overtime work, except for scheduled overtime of fire department members, and any other compensation excluded by the government.

Section 2. KRS 67A.402 is amended to read as follows:

(1) (a) Except as otherwise provided in paragraph (b) of this subsection, any member who ***has at least five (5) years of total service credit as a member of the fund may purchase service credit, that is not otherwise purchasable, for up to a maximum of four (4) years of service. The member shall not be entitled to purchase any service credit for which he has been given credit in another defined benefit retirement fund; however, the member may purchase government service credit by transferring funds directly from another public defined benefit retirement plan if the member provides proof that he is not eligible for a retirement benefit from the other public defined benefit retirement fund***~~[was honorably discharged from any branch of the armed services of the United States may purchase service credit for up to a maximum of four (4) years of active military service within five (5) years from July 15, 1990, or from the date he becomes a member of the fund, whichever occurs later]~~.

(b) Any provision of law to the contrary notwithstanding, no service credit purchase under this subsection shall be counted toward the accrual of a health or other medical insurance retirement benefit in this retirement system.

(2) A member who purchases service credit~~[for military service]~~ shall ***file an application with the board within the five (5) year period. The member shall*** pay to the fund~~[in a lump sum one hundred percent (100%) of]~~ an amount which shall be determined by actuarial method consistent with the methods prescribed for determining the purchase of prior service credit ***which shall be the principal***.

(3) Payment of the principal shall be made in a lump sum or payment of the principal and interest may be made by installments. Interest, at the annual rate of return on investments of the fund for the preceding year, shall be established by the commissioner of finance on or before August 31 of each year and shall be based on financial statements of the fund for the year ending June 30, except that the interest shall not be less than three percent (3%). Interest shall be added to the principal for the time period for which installments are to be made.

(4) If payments are made by installment, the cost of purchasing the service credit shall be recalculated annually based upon the member's current salary, the interest rate established by the commissioner of finance, and other factors required by the actuarial method. The member's payments shall be adjusted annually to reflect the annual recalculation of the cost of purchasing service credit. Installment payments shall be consecutive and the total number of monthly installments shall not be less than twelve (12) or more than two hundred forty (240). The member shall pay the installments by payroll deduction.

(5) Payments shall not be considered accumulated contributions of the member and shall not be picked up by the urban-

county government. No employer contribution shall be paid on the installments. The board shall determine how much of the total cost represents payment for one (1) quarter of the service to be purchased and the member shall receive service credit for one (1) quarter of the service each time this amount is paid.

(6) If the member dies, retires, or ceases to be a member of the fund before he has made all installment payments for the purchase of service credit, the fund shall refund to the member, his qualified surviving spouse, or his estate, the portion of any payment that does not represent a full quarter of service.

(7) A member who does not repay a refund of contributions, as provided in subsection (3) of Section 6 of this Act, shall be entitled to purchase service credit for prior membership service.

(8) The member may cancel a purchase obligation at any time, but once canceled, a member shall have forever forfeited, waived, and relinquished the right to purchase service credit.

Section 3. KRS 67A.430 is amended to read as follows:

(1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service~~[up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary]~~. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than $100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).

(2) Any retiree or surviving spouse who as of January 1, 1996, is receiving a monthly annuity of less than the amount established as the poverty guideline for a single person by the United States Department of Commerce shall have the pension increased to the amount established as the poverty guideline for calendar year 1996, and the board may increase this annuity as provided by KRS 67A.690(1).

Section 4. KRS 67A.460 is amended to read as follows:

(1) If a total and permanent occupational disability occurs, the member shall receive an annuity calculated pursuant to subsection (2) of this section. This benefit shall begin at the time his salary ceases, and shall be paid during his entire lifetime. At the member's death, his eligible widow, if any, shall receive the benefits as provided under KRS 67A.492, and his minor children, if any, shall receive benefits as provided under KRS 67A.440.

(2) The minimum annuity rate for a total and permanent occupational disability shall be sixty percent (60%) of the member's last rate of salary. The minimum rate shall be increased by one half (1/2) of the amount by which the member's percentage of disability exceeds twenty percent (20%), but this increase shall be not more than fifteen percent (15%) of the member's last rate of salary and the member's total annuity shall not be greater than seventy-five percent (75%) of his last rate of salary.

(3) The member's percentage of disability shall be the average of the impairment rating determined by two (2) physicians selected by the board under KRS 67A.480, using the latest edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment".

(4) If a member is eligible for a service retirement annuity under KRS 67A.410(1) or (2) and the amount of his service retirement annuity would exceed the amount of his total and permanent occupational disability annuity, as determined by the board under this section, then the member may elect to receive an additional service retirement annuity payment equal to the amount by which his service retirement annuity would have exceeded the amount of his total and permanent occupational disability annuity, in addition to his disability annuity, by filing with the board the application required by KRS 67A.410. A member who is eligible for a certificate entitling him to a service retirement annuity under KRS 67A.410(2) shall not be eligible to receive this additional service retirement annuity payment until he attains the age of forty-six (46).

Section 5. KRS 67A.492 is amended to read as follows:

(1) Upon the death of a retired member, his surviving widow shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater. The surviving widow must have been married to the member for at least ***one (1) year prior to the member's death or*** six (6) months prior to ***the member's*** retirement in order to be eligible for the benefits provided in this section.

(2) Any member who retires on July 15, 1990, or thereafter, shall have the option at retirement to purchase an increased annuity allowance for his surviving widow. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him. The member may elect either of two (2) options:

 (a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his lifetime and have seventy-five percent (75%) of such retirement allowance continue after his death to his eligible widow until her death or remarriage.

 (b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued at the same rate after his death to his eligible widow until her death or remarriage.

Section 6. KRS 67A.500 is amended to read as follows:

(1) Upon withdrawal from service prior to retirement, a member shall be entitled to receive a refund of the amount of contributions made by the member or picked up by the urban-county government pursuant to KRS 67A.510(2) after the date of establishment, without interest. Payments of picked up employee contributions shall be subject to state and federal tax as appropriate.

(2) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(3) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under ***KRS 67A.360 to 67A.690***[~~the provisions hereof~~]. ***Any member who is reemployed after withdrawing from service and who received a refund of contributions shall, within ninety (90) days of his reemployment or prior to retirement, whichever occurs first,***[~~After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to~~] make a repayment to the system of the amount or amounts previously received as ***a*** refund, including[~~ six percent (6%)~~] interest ***at the rate determined by the board to be the actual rate of return on investments made by the board, but not less than three percent (3%) per annum,*** from the dates of ***the*** refund to the date of repayment***, compounded annually***. Upon the restoration of such refunds,[~~ as herein provided,~~] such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service***, with interest,*** and shall be made in a single ***lump*** sum ***payment***.[~~ Such~~] Repayments shall not be picked up by the urban-county government. ***If repayment is not made within the specified time period, the member shall have forever forfeited, waived, and relinquished the right to have reinstated to his account the credited service represented by the refunds for which repayment was not made, but shall not be precluded from purchasing service credit as provided in Section 2 of this Act.***

(4) Any member who has received, or who is entitled to receive, a refund, but who within six (6) months of becoming entitled to receive such refund, qualifies for membership under the provisions of a fund in effect in another government, or city of the second class, adopted pursuant to law, shall have the option of paying his refund into such other fund, in which event he shall be deemed a member of such other fund and his account therein shall be credited with all contributions, including those picked up pursuant to KRS 67A.510(2), and service under his original fund.

Section 7. KRS 67A.530 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of ***twelve (12)***[~~eleven (11)~~] members, consisting of the mayor, the commissioner of public safety, the commissioner of finance, the director of ***human resources***[~~personnel~~], ***two (2)***[~~one (1)~~] retired ***members***[~~member~~] of the fund, the chiefs of the police and fire department, and two (2) active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two (2) years under rules adopted by the board. One of the active members representing each department shall be elected on even-numbered years; and the other active member representing such department shall be elected on odd-numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.

(2) The retired fund ***members***[~~member~~] shall be selected by retired fund members by ballot to serve[~~ a~~] two (2) year ***terms***[~~term~~]. ***One (1) retired fund member shall be a retired fire department member, and the other shall be a retired police department member.*** Retired fund members ***of a department*** shall submit the names of at least three (3) nominees ***from their department*** to the pension board not less than three (3) months before the term of office is due to expire.[~~ For the term beginning October 15, 1990, names of nominees shall be submitted to the pension board by no later than July 15, 1990.~~] The pension board shall cause to be prepared an official ballot which shall be distributed to all retired fund members by mail to their last known address. The ballot shall contain the name, address, and former ***department***[~~position~~] of each of the[~~ three (3)~~] candidates. Retired fund members shall vote for one (1) candidate ***from each department*** by marking a square opposite the name of the candidate of his choice and returning the marked ballot to the secretary of the pension board. Votes shall be tabulated by a committee of three (3) pension board members appointed by the chairman for that purpose. The tabulating committee shall report in writing to the pension board the results of the election and the name of the retired fund member who shall serve on the board. In the event of a vacancy of an elected retired fund member of the board, the pension board shall fill the vacancy by appointment until the next regular election.

(3) It is the intention of KRS 67A.360 to 67A.690 that the one elected member from each department on the pension boards of funds serving immediately prior to the adoption of the urban-county form of government shall retain his office for one (1) year, and that the other elected member from each department shall be elected for a two (2) year term.

Section 8. KRS 67A.560 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice president

shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits, and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The commissioner of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The commissioner of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The commissioner of law of the government shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the pension fund.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of ***urban-county***[~~city~~] contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service, and other essential factors. ***Beginning July 1, 2000, and*** at least once every ***two (2)***[~~three (3)~~] years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost-of-living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the Circuit Court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

Representative Stein moved that the House concur in the Senate Committee Substitute to **HB 636**. Agreed.

Representative Stein moved that **HB 636**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 29, 2000 roll call on **HB 636** - Appendix.)

HB 636, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 636**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 763, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 763** is as follows:

HB 736, AN ACT relating to personnel administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985***; and***

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;~~[and]~~

(j) ***For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:***

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;

2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;

3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;

4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings ;

5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and

6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 2. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the intent to dismiss is based;
3. The date, time, and place of such action or activity; and
4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the dismissal or other penalization is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the demotion, suspension, or other penalization is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.

(10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and
2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.

(12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(14) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

(15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(16) An evaluation may be appealed to the board if an employee has complied with the review procedure established ***in subsection (7)(j) of Section 1 of this Act***~~[under KRS 18A.112]~~.

(17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

(18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall

not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 3. KRS 18A.355 is amended to read as follows:

(1) An annual increment of not less than five percent (5%) of the base salary or wages of each state employee shall be granted to each employee on his anniversary date. The employee's base salary or wages shall be increased by the amount of the annual increment. When any increment due to a promotion, reallocation, reclassification or salary adjustment is granted an employee, the employee's base salary or wages shall be increased by the amount of such increment. An employee's base salary or wages shall not be increased by the amount of lump-sum payment awarded under ***subsection (7)(j) of Section 1 of this Act***~~[the provisions of KRS 18A.112 awarded him]~~.

(2) The branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a request for the amount of the annual increment expressed as a percentage of each employee's base salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employees. The financial plan enacted under the provisions of KRS 48.300 shall contain the annual increment expressed as a percentage of each employee's base salary or wages, and the total appropriation needed to fund the annual increment.

(3) The budget reduction plan submitted and enacted under the provisions of KRS Chapter 48 shall provide that a reduction of the annual increment granted under this section shall be made only after other cost savings measures, as provided by KRS 18A.1132, are taken. Any such reduction shall be uniform for all state employees and shall comply with the provisions of this chapter and KRS Chapter 48.

SECTION 4. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The requirement of a high school diploma, equivalency certificate, or a passing score on the General Educational Development (GED) test in the Highway Equipment Operator series shall not apply to employees hired prior to July 1, 1999.

Section 5. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employees of the General Assembly, including employees of the Legislative Research Commission, members of boards and commissions, those officers and employees of Kentucky Educational Television exempt from classified service as provided in KRS 18A.115, presidents and employees of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the Personnel Cabinet shall prepare a schedule of compensation, payable out of the State Treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employee, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the Personnel Cabinet shall ascertain and record the duties, responsibilities, and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been approved by the Governor.

(2) The Governor shall set the compensation payable out of the State Treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the Governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the ***total taxable compensation of the Governor derived from state sources***~~[amount provided for compensation to the Governor in KRS 64.480~~], the provisions of KRS 64.660 to the contrary notwithstanding. ***For the purposes of this section, the total taxable compensation of the Governor from state sources shall include the amount provided for compensation to the Governor under KRS 64.480 and any benefits or discretionary spending accounts that are imputed as taxable income for federal tax purposes.***

(3) The compensation payable out of the State Treasury to officers and employees subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employees of the Public Service Commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the Personnel Cabinet with the approval of the Governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employees of the state.

Section 6. The following KRS section is repealed:

18A.112 Performance evaluations.

The Senate Committee Amendment No. 1 Title to **HB 763** is as follows:

By amending the title to read as follows: "AN ACT relating to state personnel.".

Representative A. Arnold moved that the House concur in the Senate Committee Substitute to **HB 763**. Agreed.

Representative A. Arnold moved that **HB 763**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 3**. (See March 29, 2000 roll call on **HB 763** - Appendix.)

HB 763, by way of Committee Substitute, was passed.

Representative A. Arnold moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 763**. Agreed; and the title was agreed to.

Representative A. Arnold moved that the vote by which **HB 763**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 290 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 290** be placed in the Orders of the Day. Agreed.

SB 23, with House Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bather moved that the rules be suspended to act upon House Floor Amendment No. 7 to **SB 23**.

Representative Gooch inquired if House Floor Amendment No. 7 to **SB 23** was germane.

The Speaker ruled that House Floor Amendment No. 7 to **SB 23** was not germane.

Representative Hoover moved that the rules be suspended to act upon House Floor Amendment No. 5 to **SB 23**.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 29, 2000 roll call on the motion that the rules be suspended to act upon House Floor Amendment No. 5 to **SB 23** - Appendix.)

The motion that the rules be suspended to act upon House Floor Amendment No. 5 to **SB 23** was adopted.

Representative Hoover moved the adoption of Floor Amendment No. 5 to **SB 23**. Agreed.

Representative Palumbo moved that **SB 23**, as amended, be passed.

Representative Worthington moved the adoption of House Floor Amendment No. 2 to **SB 23**.

Representative Marzian inquired if House Floor Amendment No. 2 to **SB 23** was germane.

The Speaker ruled that House Floor Amendment No. 2 to **SB 23** was not germane.

Representative Worthington moved the adoption of House Floor Amendment No. 3 to **SB 23**.

Representative Marzian inquired if House Floor Amendment No. 3 to **SB 23** was germane.

The Speaker ruled that House Floor Amendment No. 3 to **SB 23** was not germane.

Representative Palumbo moved that **SB 23**, as amended, be passed.

On the roll call the vote was: **Yeas 79, Nays 1**. (See March 29, 2000 roll call on **SB 23** - Appendix.)

SB 23, as amended, was passed.

Representative Palumbo moved the adoption of House Floor Amendment No. 6 Title to **SB 23**. Agreed; and the title was agreed to.

Representative Palumbo moved that the vote by which **SB 23**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Message in regard to **HB 16**: The Senate has adopted the Free Conference Committee Report on **HB 16** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Report of Committees (Continued)

A Free Conference Committee Report was filed on **HB 992**.

Representative Stumbo moved that the rules be suspended to act on Free Conference Committee Reports. Agreed.

Orders of the Day (Continued)

SB 152 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative D. Butler moved the adoption of the following Free Conference Committee Report on **SB 152**. Agreed.

The Free Conference Committee on **SB 152** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **SB 152** as amended by the House Committee Substitute, HFA No. 1 and Title Amendment Nos. 2 and 3, with the following changes:

In the HCS, on page 10, line 5, after the word "thereon.", by deleting the words, "The safety and security", and by deleting lines 6 and 7 in their entirety, and on page 10, line 8, by deleting the words "department are for all purposes deemed to be public police officers.".

Signed: March 29, 2000 - Representatives Butler, J. Arnold, and Feeley; Senators Borders, Seum, Kerr, and Saunders. The above-named members, in separate votes by house, concur in the provisions of this report.

Representative D. Butler moved that **SB 152**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 51, Nays 17**. (See March 29, 2000 roll call on **SB 152** - Appendix.)

SB 152, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative D. Butler moved that the vote by which **SB 152**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 517** be taken from the Orders of the Day and act on the Free Conference Committee Report. Agreed.

The Speaker Pro Tem assumed the Chair.

Speaker Richards resumed the Chair.

Representative Riggs moved the adoption of the following Free Conference Committee Report on **HB 517**. Agreed.

The Free Conference Committee on **HB 517** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA Copy **HB 517** with the following changes:

On page 1, between the enacting clause and line 1 by inserting:

"SECTION 1. SUBTITLE 17B OF KRS CHAPTER 304 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Administrator" is defined in KRS 304.9-051(1);

(2) "Agent" is defined in KRS 304.9-020;

(3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in Section 11 of this Act;

(4) "Authority" means the Kentucky Health Care Improvement Authority;

(5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;

(6) "Commissioner" is defined in KRS 304.1-050(1);

(7) "Department" is defined in KRS 304.1-050(2);

(8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;

(9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;

(10) "Eligible individual" is defined in subsection (7) of Section 17 of this Act;

(11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through December 31, 2000, in the individual market to guaranteed acceptance program qualified individuals;

(13) "Health benefit plan" is defined in subsection (17) of Section 17 of this Act;

(14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;

(15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;

(16) "Insurer" is defined in subsection (22) of Section 17 of this Act;

(17) "Kentucky Access" means the program established in accordance with Sections 1 to 16 of this Act;

(18) "Kentucky Access Fund" means the fund established in Section 11 of this Act;

(19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in subsection (5) of Section 2 of this Act;

(20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in subsection (5) of Section 2 of this Act;

(21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;

(22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;

(23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;

(24) "Pre-existing condition exclusion" is defined in KRS 304.17A-220(3);

(25) "Standard health benefit plan" means a health benefit plan that meets the requirements of Section 21 of this Act;

(26) "Stop-loss carrier" means any person providing stop-loss health insurance coverage;

(27) "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and

(28) "Utilization management" is defined in KRS 304.17A-500(12).

SECTION 2. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of fifteen (15) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with Sections 1 to 16 of this Act and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:

  (a) The commissioner of the Department of Insurance, who shall serve as chair;

  (b) The secretary of the Cabinet for Health Services, who shall serve as vice chair;

  (c) Two (2) nonvoting members serving ex officio from the House of Representatives, one (1) of whom shall be appointed by the Speaker of the House and one (1) appointed by the minority floor leader, and who shall be serve a term of two (2) years;

  (d) Two (2) nonvoting members serving ex officio from the Senate, one (1) of whom shall be appointed by the President of the Senate and one (1) appointed by the minority floor leader, and who shall be serve a term of two (2) years;

  (e) The deans of the University of Louisville School of Medicine and the University of Kentucky College of Medicine;

  (f) The commissioner of the Department for Public Health;

  (g) Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and

  (h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.

(2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of whom shall be male and at least one (1) of whom shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

(3) In making private sector and citizen-at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen-at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(4) The authority shall establish priorities for programs and the expenditure of funds, establish procedures for accountability, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the Department of Insurance for administrative purposes and shall establish advisory boards it deems appropriate, which shall consist of health insurance

consumers, health care providers, and insurance company representatives, to assist with oversight of fund expenditures.

(5) Grants and funds obtained under Sections 1 to 16 of this Act shall be used for expenditures as follows:

 (a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;

 (b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and

 (c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.

(6) The authority shall assure that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.

(7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under Sections 1 to 16 of this Act. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

(8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 1 to 16 of this Act, including, but not limited to, retaining the staff it deems necessary for the proper performance of its duties.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

SECTION 3. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created Kentucky Access, which shall ensure that health coverage is made available to each Kentucky individual resident applying and qualifying for coverage. Any health coverage provided under this section shall begin no sooner than January 1, 2001. Kentucky Access is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health coverage allowed by federal law.

(2) Kentucky Access shall operate under the supervision of the department.

(3) Neither the department nor its employees shall be liable for any obligations of Kentucky Access. No member or employee of the department shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under Sections 1 to 16 of this Act, unless such act or omission constitutes willful or wanton misconduct. The department may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

SECTION 4. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the department shall, through itself or designated agents:

(1) Establish administrative and accounting procedures for the operation of Kentucky Access;

(2) Enter into contracts as necessary;

(3) Take legal action necessary:

 (a) To avoid the payment of improper claims against Kentucky Access or the coverage provided by or through Kentucky Access;

 (b) To recover any amounts erroneously or improperly paid by Kentucky Access;

 (c) To recover any amounts paid by the Kentucky Access as a result of mistake of fact or law;

 (d) To recover other amounts due Kentucky Access; or

 (e) To operate and administer its obligations under the provisions of Sections 1 to 16 of this Act;

(4) Establish, and modify as appropriate, rates, rate schedules, rate adjustments, premium rates, expense allowances, claim reserve formulas, and any other actuarial function appropriate to the administration and operation of Kentucky Access. Premium rates and rate schedules may be adjusted for appropriate factors, including, but not limited to, age and sex, and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices;

(5) Establish procedures under which applicants and participants in Kentucky Access shall have an internal grievance process and a mechanism for external review through an independent review organization in accordance with this chapter;

(6) Select a third-party administrator in accordance with Section 6 of this Act;

(7) Require that all health benefit plans, riders, endorsements, or other forms and documents used to administer Kentucky Access meet the requirements of Subtitles 12, 14, 17, 17A, and 38 of this chapter;

(8) Adopt nationally recognized uniform claim forms in accordance with this chapter;

(9) Develop and implement a marketing strategy to publicize the existence of Kentucky Access, including, but not limited to, eligibility requirements, procedures for enrollment, premium rates, and a toll–free telephone number to call for questions;

(10) Establish and review annually provider reimbursement rates that ensure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under Kentucky Access at least to the extent that such care and services are available to the general population. The department shall only authorize contracts with health care providers that prohibit the provider from collecting from the enrollee any amounts in excess of copayment amounts, coinsurance amounts, deductible amounts, and amounts for noncovered services;

(11) Conduct periodic audits to assure the general accuracy of the financial and claims data submitted to the department and be subject to an annual audit of its operations;

(12) Issue health benefit plans January 1, 2001, or thereafter, in accordance with the requirements of Sections 1 to 16 of this Act;

(13) Require a referral fee of fifty dollars ($50) to be paid to agents who refer applicants who are subsequently enrolled in Kentucky Access. The referral fee shall be paid only on the initial enrollment of an applicant. Referral fees shall not be paid on any enrollments of enrollees who have been previously enrolled in Kentucky Access, or for renewals for enrollees;

(14) Bill and collect premiums from enrollees in the amount determined by the department;

(15) Assess insurers and stop-loss carriers in accordance with Section 11 of this Act;

(16) Reimburse GAP participating insurers for GAP losses pursuant to Section 11 of this Act;

(17) Establish a provider network for Kentucky Access by developing a statewide provider network or by contracting with an insurer for a statewide provider network. In the event the department contracts with an insurer, the department may take into consideration factors including, but not limited to, the size of the provider network, the composition of the provider network, and the current market rate of the provider network. The provider network shall be made available to the third-party administrator specified in Section 6 of this Act and shall be limited to Kentucky Access enrollees.

(18) Be audited by the Auditor of Public Accounts;

(19) By administrative regulation, amend the definition of high-cost conditions provided in Section 1 of this Act by adding other high-cost conditions;

(20) The department shall report on an annual basis to the Interim Joint Committee on Banking and Insurance the separation plan pursuant to Section 18 of this Act for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access; and

(21) Any other actions as may be necessary and proper for the execution of the department's powers, duties, and obligations under Sections 1 to 16 of this Act.

SECTION 5. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In its duties to operate and administer Kentucky Access, the department may, through itself or third parties:

(1) Exercise any and all powers granted to insurers under this chapter; and

(2) Sue or be sued.

SECTION 6. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall select a third-party administrator, through the state competitive bidding process, to administer Kentucky Access. The third-party administrator shall be an administrator licensed by the department. The department shall consider criteria in selecting a third-party administrator that shall include, but not be limited to, the following:

   (a) A third-party administrator's proven ability to demonstrate performance of the operations of an insurer to include the following: enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, quality improvement, drug utilization review, premium billing and collection, claims payment, and data reporting;

   (b) The total cost to administer Kentucky Access;

   (c) A third-party administrator's proven ability to demonstrate that Kentucky Access shall be administered in a cost-efficient manner;

   (d) A third-party administrator's proven ability to demonstrate experience in two (2) or more states administering a risk pool for a minimum of a three (3) year period; and

   (e) A third-party administrator's financial condition and stability.

(2) The department may contract with the third-party administrator for a period of four (4) years with an option for a two (2) year extension as approved by the department on a year-by-year contract basis. At least one (1) year prior to the expiration of the third-party administrator's contract, the department may solicit third-party administrators, including the current third-party administrator, to submit bids to serve as the third-party administrator for the succeeding four (4) year period.

(3) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:

(a) Develop and establish policies and procedures for enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, case management, disease management, quality improvement, drug utilization review, premium billing and collection, data reporting, and other responsibilities determined by the department;

(b) Develop and establish policies and procedures for paying the agent referral fee under Sections 1 to 16 of this Act;

(c) Develop and establish policies and procedures to ensure timely and efficient payment of claims to include, but not limited to, the following:

1. Develop and provide a claims billing manual to health care providers enrolled in Kentucky Access that includes information relating to the proper billing of a claim and the types of claim forms to use;

2. Payment of all claims in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder; and

3. Notification to an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility of a paid claim for deductible or coinsurance amounts;

(d) Issue denial letters under KRS 304.17A-540 for denial of preauthorization and precertification requests for medical necessity and medical appropriateness determinations;

(e) Submit information to the department under KRS 304.17A-330;

(f) Submit reports to the department regarding the operation and financial condition of Kentucky Access. The frequency, content, and form of the reports shall be determined by the department;

(g) Submit an annual report to the department three (3) months after the end of each calendar year. The annual report shall include:

1. Earned premium;

2. Administrative expenses;

3. Incurred losses for the year;

4. Paid losses for the year;

5. Number of enrollees enrolled in Kentucky Access by category of eligibility; and

6. Any other information requested by the department; and

(h) Be subject to examination by the department under Subtitles 2 and 3 of this chapter.

(4) The third-party administrator shall be paid for necessary and reasonable expenses, as provided in the contract between the department and the third-party administrator.

SECTION 7. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The schedule of rates, premium rates charged to enrollees, deductible amounts, copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be established by the department. Premium rates charged to enrollees are not intended to fully cover the cost of providing health care coverage to Kentucky Access enrollees, and any claims in excess of premium rates shall be covered by the Kentucky Access fund.

(2) Premium rates for health benefit plans provided under Kentucky Access shall bear a reasonable relationship to each other. Premium rates shall be varied based on age and gender. The initial premium rates for plan coverage shall not exceed one hundred fifty percent (150%) of the applicable individual standard risk rates, as established by the department. In no event shall premium rates exceed one hundred seventy-five percent (175%) of the rates applicable to individual standard risks.

(3) Premium rates for coverage issued by Kentucky Access shall be established annually by the department, using reasonable actuarial principles, and shall reflect anticipated experience and expenses for risks under Kentucky Access.

SECTION 8. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky

Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least two (2) insurers for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or

(c) The individual has a high-cost condition listed in Section 1 of this Act.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) The individual has, or is eligible for, on the date of application for coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Except for covered benefits paid under the standard health benefit plan as specified in Section 10 of this Act, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the department; or

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section may be terminated.

SECTION 9. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) At least annually, the department shall evaluate and revise as necessary rates to be charged to Kentucky Access enrollees.

(2) Except as provided in Section 10 of this Act, the department may revise its health benefit plans, cost-sharing arrangements, plan delivery rules, schedule of benefits, rates, and cost-containment features provided under Kentucky Access at the time of the health benefit plan renewal as necessary to ensure that Kentucky Access maintains adequate resources for continued operation.

SECTION 10. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Kentucky Access shall offer at least three (3) health benefit plans to enrollees, which shall be similar to the health benefit plans currently being marketed to individuals in the individual market. One (1) plan shall be the standard health benefit plan set forth in KRS 304.17A-250.

(2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least one (1) plan may be offered in a managed-care form at such time as the department can establish an appropriate provider network in available service areas.

(3) The department shall provide for utilization review and case management for all health benefit plans issued under Kentucky Access.

(4) The department shall review and compare health benefit plans provided under Kentucky Access to health benefit plans provided in the individual market. Based on the review, the department may amend or replace the health benefit plans issued under Kentucky Access, except for the standard health benefit plan as specified in subsection (1) of this section.

(5) Individuals who apply and are determined eligible for health benefit plans issued under Kentucky Access shall have coverage effective the first day of the month after the application month.

(6) For eligible individuals, health benefit plans issued under Kentucky Access shall not impose any pre-existing condition exclusions. In all other cases, a pre-existing condition exclusion may be imposed in accordance with KRS 304.17A-230.

(7) Health benefit plans issued under Kentucky Access shall be guaranteed renewable except as otherwise specified in Section 8 of this Act and KRS 304.17A-240.

(8) All health benefit plans issued under Kentucky Access shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to

continue under the same or a different contract.

(9) Health benefit plans issued under Kentucky Access shall coordinate benefits with other health benefit plans and be the payor of last resort.

(10) Except for the standard health benefit plan specified in subsection (1) of this section, health benefit plans issued under Kentucky Access shall pay covered benefits up to a lifetime limit of two million dollars ($2,000,000) per covered individual. The maximum limit under this subsection may be increased by the department.

SECTION 11. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the other powers enumerated in Sections 1 to 16 of this Act, the department shall assess insurers in the amounts specified in this section. The assessment shall be used for the purpose of funding GAP losses and Kentucky Access.

(a) The amount of the assessment for each calendar year shall be as follows:

1. From each stop-loss carrier, an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

2. From all insurers, an amount based on the total amount of all health benefit plan premiums earned during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the annual assessment is based. The percentage rate used for the annual assessment shall be the same percentage rate as calculated in the GAP risk adjustment process for the six (6) month period of July 1, 1998, through December 31, 1998;

3. If determined necessary by the department, a second assessment may be assessed in the same manner as the annual assessment in subparagraph 2. of this paragraph; and

4. In no event shall the sum of the first assessment provided for in subparagraph 2. of this paragraph and the second assessment provided for in subparagraph 3. of this paragraph be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums earned during the prior assessment period.

(b) The first assessment shall be for the period from January 1, 2000, through December 31, 2000, and shall be paid on or before March 31, 2001. Subsequent annual assessments shall be paid on or before March 31 of the year following the assessment period.

(2) Every supporting insurer shall report to the department, in a form and at the time as the department may specify, the following information for the specified period:

(a) The insurer's total stop-loss premiums and health benefit plan premiums in the individual, small group, large group, and association markets; and

(b) Other information as the department may require.

(3) As part of the assessment process, the department shall establish and maintain the Kentucky Access fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors.

(4) The Kentucky Access fund shall be funded from the following sources:

(a) Premiums paid by Kentucky Access enrollees;

(b) The funds designated for Kentucky Access in the Kentucky Health Care Improvement fund;

(c) Appropriations from the General Assembly;

(d) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(e) Annual assessments from supporting insurers;

(f) A second assessment from supporting insurers;

(g) Gifts, grants, or other voluntary contributions;

(h) Interest or other earnings on the investment of the moneys held in the account; and

(i) Any funds remaining on January 1, 2001, in the guaranteed acceptance program account may be transferred to the Kentucky Access fund.

(5) The department shall determine on behalf of Kentucky Access the premiums, the expenses for administration, the incurred losses, taking into account investment income and other amounts needed to satisfy reserves, estimated claim liabilities, and other obligations for each calendar year. The department shall also determine the amount of the actual guaranteed acceptance program plan losses for each calendar year. The department shall assess insurers as follows:

(a) On or before March 31 of each year, the amount set forth in subsection (1)(a)1. and (1)(a)2. of this section.

(b) If the amount of actual guaranteed acceptance program plan losses exceeds the assessment provided for in paragraph (a) of this subsection, a second assessment shall be authorized under subsection (1)(a)3. of this section. If the amount of GAP losses exceeds the assessments provided under subsection (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, moneys received and available from the Kentucky Health Care Improvement Fund after the department determines available funding for Kentucky Access for the current calendar year pursuant to subsection (6) of this section, shall be used to reimburse GAP participating insurers for any actual guaranteed acceptance program losses. If the amount of GAP losses exceeds the amount in the Kentucky Health Care Improvement Fund after reserving sufficient funds for Kentucky Access for the current year, each GAP participating insurer shall be reimbursed up to the amount of its proportional share of actual guaranteed acceptance program plan losses from the fund. Effective for any assessment on or after January 1, 2001, in calculating GAP losses, total premiums and total claims of the GAP participating insurer shall be used. Actual guaranteed acceptance program losses shall be calculated as the difference between the total GAP claims and the total GAP premiums on an aggregate basis.

(c) If GAP losses are fully covered by the assessment process provided for in under subsection (1)(a)1. and (1)(a)2. of this section and the second assessment provided for in subsection (1)(a)3. of this section is not necessary to cover GAP losses, and as determined by the department using reasonable actuarial principles Kentucky Access funding is needed, a second assessment provided for in subsection (1)(a)3. of this section shall be completed.

(6) After the end of each calendar year, GAP losses shall be reimbursed only after the department determines that appropriate funding is available for Kentucky Access for the current calendar year. GAP losses shall be reimbursed after reserving sufficient funds for Kentucky Access.

(7) With respect to a GAP participating insurer who reasonably will be expected both to pay assessments and to receive payments from the assessment fund, the department shall calculate the net amount owed to or to be received from the fund, and the department shall only collect assessments for or make payments from the fund based upon net amounts.

(8) Insurers paying an assessment may include in any health insurance rate filing the amount of these assessments as provided for in Subtitle 17A of this chapter.

(9) Insurers shall pay any assessment amounts authorized in Sections 1 to 16 of this Act within thirty (30) days of receiving notice from the department of the assessment amount.

(10) Any surpluses remaining in the Kentucky Access fund after completion of the assessment process for a calendar year shall be maintained for use in the assessment process for future calendar years and such funds shall not lapse. The general fund appropriations to the Kentucky Access fund shall not lapse.

(11) Assessments on health benefit plan premiums that are required under Sections 1 to 16 of this Act shall not be applied to premiums received by an insurer for state employees, Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

(12) The department shall direct that receipts of Kentucky Access be held at interest, and may be used to offset future losses or to reduce plan premiums in accordance with the terms of Sections 1 to 16 of this Act. As used in this subsection, "future losses" may include reserves for incurred but not reported claims.

(13) The department shall conduct examinations of insurers and stop-loss carriers reasonably necessary to determine if the information provided by the insurers or stop-loss carriers is accurate.

(14) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

(15) The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessments specified in Sections 1 to 16 of this Act.

SECTION 12. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) After the end of each calendar year, a GAP participating insurer shall report the following information for the previous calendar year:

(a) The total earned premium in the individual, small group, large group, and association markets;

(b) The number of GAP policies in force as of December 31;

(c) The amount of the insurer's GAP premiums received during the calendar year covered by the report;

(d) The amount of the insurer's GAP claims paid during the calendar year covered by the report;

(e) The amount of the insurer's GAP losses; and

(f) Other information as the department may require to be reported.

(2) After the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the department shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of GAP premiums for all reporting insurers;

(c) The total amount of GAP claims paid by all reporting insurers;

(d) The amount of total actual GAP losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the department may elect to calculate and report.

The department shall complete its calculation and provide each insurer the results of its calculation within sixty (60) days after receiving all required information.

(3) The department shall pay GAP losses to GAP participating insurers in accordance with this section and subsection (5) of Section 11 of this Act.

(4) The department shall conduct examinations of insurers participating in Kentucky Access as are reasonably necessary to determine if the information provided by the insurers is accurate.

SECTION 13. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health benefit plan issued to a GAP qualified individual under the GAP program shall be renewed at the option of the enrollee, except for the reasons set out in KRS 304.17A-240.

(2) The Guaranteed Acceptance Program shall remain in effect except for KRS 304.17A-400, 304.17A-420, 304.17A-440, 304.17A-460, 304.17A-470, and 304.17A-480.

SECTION 14. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Kentucky Access and the department shall be exempt from all taxes levied by the state or any of its subdivisions.

SECTION 15. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sixty (60) days prior to the regular session of the General Assembly in the year 2002, and sixty (60) days prior to each subsequent regular session of the General Assembly thereafter, the department shall submit a written report to the Legislative Research Commission and provide a detailed briefing. The report shall contain an evaluation of Kentucky Access, an evaluation of issues concerning high-risk individuals, and other information as the department deems necessary.

(2) Beginning no later than June 30, 2001, and annually thereafter, the Auditor of Public Accounts shall audit Kentucky Access and within sixty (60) days of completion of the audit shall submit a copy of the audit to the Legislative Research Commission and the Department of Insurance.

SECTION 16. A NEW SECTION OF SUBTITLE 17B OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall promulgate administrative regulations necessary to carry out the provisions of Sections 1 to 16 of this Act.

(2) Kentucky Access shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(a) Subtitle 1;

(b) Subtitle 2;

(c) Subtitle 3;

(d) Subtitle 5;

(e) Subtitle 8;

(f) Subtitle 9;

(g) Subtitle 12;

(h) Subtitle 14;

(i) Subtitle 17;

(j) Subtitle 17A;

(k) Subtitle 25;

(l) Subtitle 38; and

(m) Subtitle 47.

Section 17. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(5) "COBRA" means any of the following:

  (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

  (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

  (c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

    1. A group health plan;
    2. Health insurance coverage;
    3. Part A or Part B of Title XVIII of the Social Security Act;
    4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
    5. Chapter 55 of Title 10, United States Code;
    6. A medical care program of the Indian Health Service or of a tribal organization;
    7. A state health benefits risk pool;
    8. A health plan offered under Chapter 89 of Title 5, United States Code;
    9. A public health plan, as defined in regulations; or
    10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

  (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(7) "Eligible individual" means an individual:

  (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

  (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

  (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

  (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

  (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

  (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

  (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

  (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(15) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

- (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
- (b) Chiropractors licensed under KRS Chapter 312;
- (c) Dentists licensed under KRS Chapter 313;
- (d) Optometrists licensed under KRS Chapter 320;
- (e) Physician assistants regulated under KRS Chapter 311;
- (f) Nurse practitioners licensed under KRS Chapter 314; and
- (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) (a) "High-cost condition" pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(20) “Index rate” means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(21) “Individual market” means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(22) “Insurer” means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that

purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(24) “Large group” means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(26) “Market segment” means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(34) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(35) "Standard benefit plan" means the plan identified in KRS 304.17A-250.

Section 18. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of nine (9)[seven (7)] members: the commissioner plus eight (8)[six (6)] persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The eight (8)[six (6)] persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; [and]

(c) Two (2) representatives of purchasers of health benefit plans; and

(d) Two (2) representatives of agents.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; [and]

(e) Advise the Department of Insurance concerning the Department of Insurance's separation plan for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access;

(f) Review and discuss issues that impact Kentucky Access; and

(g) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) Prior to January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS 304.17A-005(19) and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions. On or after January 1, 2001, no less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the Department for Kentucky Access and report to the commissioner any and all recommended changes.

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 19. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate, except that the premium rates charged to an individual shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty[ten] percent (20%)[(10%)] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) [(a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until April 10, 1998, for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after April 10, 1998. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under KRS 304.17A-400 shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after April 10, 1998; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after April 10, 1998, and thereafter.

(4)]The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate, except that the premium rate charged to a small group or association shall not vary from the index

rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001.

(4)[(5)]The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed twenty[fifteen] percent (20%)[(15%)] annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(5)[(6)]In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(6)[(7)]Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(7)[(8)]The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(c) Notwithstanding any other provision of this subsection, beginning January 1, 2001, a GAP participating insurer may establish a separate class of business for the purpose of separating guaranteed acceptance program qualified individuals from other individuals enrolled in their plan prior to January 1, 2001. The index rate for the separate class created under this paragraph shall be established taking into consideration expected claims experience and administrative costs of the new class of business and the previous class of business.

(8)[(9)]For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(9)[(10)] Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(10)[(11)] Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

Section 20. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of [paragraphs (a) and (b) of]this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured, except as provided in Sections 1 to 16 of this Act.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to Kentucky Access, [the Kentucky guaranteed acceptance program] or to arrange for an individual employee to apply to Kentucky Access [that plan], for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer that offers multiple health benefit plans to require a health care provider, as a condition of participation in a health benefit plan of the insurer, to participate in any of the insurer's other health benefit plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract violating this subsection is void.

(5) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(6)[(5)]The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under Section 11 of this Act[KRS 304.17A-470]. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(7)[(6)]The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

Section 21. KRS 304.17A-250 is amended to read as follows:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the [individual or]small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in KRS 304.17A-200[and 304.17A-210]. As a condition of doing business in the individual market on or after January 1, 2001, a health insurer shall offer the standard health benefit plan. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on April 10, 1998.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point-of-service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of Section 11 of this Act [KRS 304.17A-430] for inclusion in calculating assessments and refunds under Kentucky Access [the guaranteed acceptance program].

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under KRS 304.17A-200, [304.17A-210,]304.17A-220, 304.17A.230, and 304.17A-240.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a properly completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an applicant or insured with a disclosed high-cost condition as specified in Section 1 of this Act or for any reason, shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the [specific high-cost condition that is the] basis for refusing to issue a policy, a description of Kentucky Access, and the telephone number for a contact person who can provide additional information about Kentucky Access[the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program].

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

(14) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

Section 22. KRS 304.17A-260 is amended to read as follows:

An insurer that, on or after July 15, 1995, until April 10, 1998, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after the effective date of this Act[April 10, 1998], until April[January] 1, 2001[1999], for approval to reenter Kentucky, and if the commissioner grants approval the insurer may engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 23. KRS 304.17A-320 is amended to read as follows:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing, the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a) All assessments placed on insurers under Section 11 of this Act[KRS 304.17A-460];

(b) All rating restrictions placed on employer-organized associations under KRS 304.17A-0954;

(c) All rate review requirements placed on insurers under this subtitle;

(d) All data collection requirements placed on insurers under this subtitle; and

(e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220."

On page 1, line 1 after "SECTION" by deleting "1." and by inserting "24." in lieu thereof;

On page 1, after line 7 by adding:

"Section 25. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers, shall submit a copy of the filing to the Attorney General, and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper.

(2) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) The effect on the rates of any assessment made under Section 11 of this Act [KRS 304.17A-460]; and

(g) Other factors as deemed relevant by the commissioner.

(4) The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.

(5) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund or future premium credit to policyholders, enrollees, and subscribers if the commissioner determines that the rates or fees previously approved are in violation of this chapter.

(6) Notwithstanding subsection (2)(a) to (e) of this section, premium rates may be used upon filing with the department of a policy form not previously used if the filing is accompanied by the policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio guarantee. An insurer may not elect to use the filing procedure in this subsection for a policy form that does not contain the minimum loss ratio guarantee. Insurers may not amend policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subsection for a policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that policy form or forms.

(a) The minimum loss ratio shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subsection;

2. A statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

3. Detailed experience information concerning the policy forms;

4. A step-by-step description of the process used to develop the experience loss ratio, including demonstration with supporting data;

5. A guarantee of a specific lifetime minimum loss ratio, that shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Seventy percent (70%) for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

b. Seventy percent (70%) for policies issued to small groups of two (2) to ten (10) employees or for certificates issued to members of an association that offers coverage to small employers; and

c. Seventy-five percent (75%) for policies issued to small groups of eleven (11) to fifty (50) employees;

6. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph, adjusted for duration;

7. A guarantee that the actual Kentucky lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in subparagraph 5. of this paragraph; and

8. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other credibility factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue. The audit shall demonstrate the calculation of the actual Kentucky loss ratio in a manner prescribed as set forth in administrative regulations promulgated by the commissioner.

(c) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form during the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky State Treasury.

(f) None of the provisions of subsections (2) and (3) of this section shall apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subsection.

Such filings shall be deemed approved. Each insurer paying a risk assessment under Section 11 of this Act [KRS 304.17A-460] may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(g) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member, or subscriber as prescribed by the commissioner an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(h) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percent of premium on an aggregate basis to be refunded if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than ten dollars ($10).

(7) The commissioner may by administrative regulation prescribe any additional information related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she deems necessary and relevant to be included in the filings and the form of the filings required by this section. When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local premium taxes less other assessments. For purposes of determining the loss ratio for any loss ratio guarantee pursuant to this section, the commissioner may examine the insurer's expenses for preferred provider organization, case management, utilization review, and reinsurance used by the insurer in calculating the loss ratio guarantee for reasonableness. Only those expenses found to be reasonable by the commissioner may be used by the insurer for determining the loss ratio for purposes of any loss ratio guarantee.

Section 26. KRS 304.17A-290 is amended to read as follows:

(1) Coverage of an individual who is not a state employee or a small group which on April 10, 1998, is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after April 10, 1998.

(2) The state employee health insurance fund established under KRS 18A.2281 shall be deemed an insurer as defined in KRS 304.17A-005 only for the coverage it provides to individuals not state employees or to small groups and only until such time as this coverage terminates in accordance with subsection (1) of this section.

(3) [The state employee health insurance fund established under KRS 18A.2281 shall be subject to assessments and reimbursements under KRS 304.17A-400 to 304.17A-480 only for the premium collected and the claims paid for individuals who are not state employees and the small groups which are covered by the fund.

(4)] Except as provided in this section, the state employee health insurance fund established under KRS 18A.2281 shall not be deemed an insurer for any other purpose in this chapter and, in no event, at any time more than twelve (12) months after April 10, 1998, shall it be deemed to be an insurer.

Section 27. KRS 304.17A-0954 is amended to read as follows:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in KRS 304.17A-005;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to April 10, 1998, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" has the meaning provided in KRS 304.17A-005.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate, except that the premium rates charged to an employer-organized association shall not vary from the index rate by more than fifty percent (50%) for two (2) consecutive years beginning January 1, 2001.

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period shall not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed twenty [fifteen] percent (20%) [(15%)] annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

Section 28. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 7 -- Investments;

(4) Subtitle 8 -- Administration of Deposits;

(5) Subtitle 12 -- Trade Practices and Frauds;

(6) Subtitle 25 -- Continuity of Management;

(7) Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(8) Subtitle 18 -- KRS 304.18-110, 304.18-120 -- Group Conversion and KRS 304.18-045;

(9) Subtitle 4 -- Fees and Taxes;

(10) Subtitle 99 -- Penalties;

(11) Subtitle 14 -- KRS 304.14-500 to 304.14-560; [and]

(12) Subtitle 17A -- Health Benefit Plans; and

(13) Subtitle 17B --Kentucky Access.

Section 29. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 6 -- Assets and Liabilities;

(7) Subtitle 7 -- Investments;

(8) Subtitle 8 -- Administration of Deposits;

(9) Subtitle 12 -- Trade Practices and Frauds;

(10) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(11) Subtitle 17A -- Health Benefit Plans;

(12) Subtitle 17B -- Kentucky Access;

(13) Subtitle 25 -- Continuity of Management;

(14)[(13)] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(15)[(14)] Subtitle 37 -- Insurance Holding Company Systems; and

(16)[(15)] Subtitle 99 -- Penalties.

Section 30. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS 42.800 to 42.825.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in Section 3 of this Act.

Section 31. KRS 304.17A-515 is amended to read as follows:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that meets the following accessibility requirements:

1. For urban areas, a provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence or work, to the extent that services are available; or

2. For areas other than urban areas, a provider network that makes available primary care physician services, hospital services, and pharmacy services within thirty (30) minutes or thirty (30) miles of each enrollee's place of residence or work, to the extent those services are available. All other providers shall be available to all persons enrolled in the plan within fifty (50) minutes or fifty (50) miles of each enrollee's place of residence or work, to the extent those services are available

[A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available].

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

Section 32. The following KRS sections are repealed effective January 1, 2001:

304.17A-210 Guaranteed-issue basis of individual market plans -- Guidelines -- Exceptions.

304.17A-280 Additions to high-cost conditions list -- Hearing.

304.17A-400 Guaranteed Acceptance Program -- Nondiscrimination in provider payment -- Participation by insurer as condition to do business.

304.17A-420 Participating insurer -- Written notification of program status -- Program participating insurer requirements -- Exemptions.

304.17A-440 Premium -- Limitations.

304.17A-460 Insurer annual reports -- Department calculations and notification to insurer -- Assessments and refunds -- Stop-loss carrier -- Examinations of participating insurers.

304.17A-470 Risk adjustment process -- Program account -- Funding -- Calculation of losses -- Assessments.

304.17A-480 Report to Legislative Research Commission -- Audit.

Section 33. Sections 19, 20, 21, 23, 25, 26, and 27 of this Act take effect January 1, 2001.".

The Free Conference Committee also agreed to amend the title to read as follows:

"AN ACT relating to health insurance."

Signed: March 29, 2000 - Representatives Riggs, Palmer, Gooch, J. Adams, Crimm, Bratcher, DeWeese, McKee and Crall; Senators Jackson, Rose, McGaha, and Westwood. The above-named members, in separate votes by house, concur in the provisions of this report.

On the roll call the vote was: **Yeas 49, Nays 47**. (See March 29, 2000 roll call on the Free Conference Committee Report on **HB 517** - Appendix.)

The Free Conference Committee Report on **HB 517** was adopted.

Representative Riggs moved that **HB 517**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 45, Nays 44**. (See March 29, 2000 roll call on **HB 517** - Appendix.)

HB 517, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 517**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 58, HB 156, HB 202, HB 213, HB 392, HB 454, HB 465, HB 519, HB 538, HB 544, HB 678, HB 712, HB 843, HB 897,** and **HJR 113** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:05 p.m.)

Senate Message (Continued)

Message in regard to **HB 8**: The Senate has adopted the Free Conference Committee Report on **HB 8** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 330**: The Senate has adopted the Free Conference Committee Report on **HB 330** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **SB 15**: The Senate has refused to concur in Senate Floor Amendment No. 1 and Senate Floor Amendment No. 2 to **SB 15** and respectfully returns it with the request that this Honorable Body recede from the Amendments. (Time: 10:25 p.m.)

Orders of the Day (Continued)

SB 113 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Johns moved the adoption of the following Conference Committee Report on **SB 113**. Agreed.

The Conference Committee on **SB 113** has met as provided by the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **SB 113** with House Floor Amendment Nos. 1, 2, and House Floor Amendment Title No. 3.

Signed: March 29, 2000 - Representatives Sims, Bowling, Cherry, and Treesh; Senators Rose, Shaugnessy, Casebier, and Seum. The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Johns moved that **SB 113**, as amended by the Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 84**, **Nays 0**. (See March 29, 2000 roll call on **SB 113** - Appendix.)

SB 113, as amended by the Conference Committee Report, was passed and the title agreed to.

Representative Johns moved that the vote by which **SB 113**, as amended by the Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 330 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Wayne moved the adoption of the following Free Conference Committee Report on **HB 330**. Agreed.

The Free Conference Committee on HB 330 has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA Copy of HB 330 with Senate Committee Amendment Nos. 2 and 3.

Signed: March 29, 2000 - Representatives Wayne, Vincent, P. Clark, and Jenkins; Senators Stine, McGaha, Borders, and Blevins. The above-named members, in separate votes by house, concur in the provisions of this report.

Representative Wayne moved that **HB 330**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 89**, **Nays 0**. (See March 29, 2000 roll call on **HB 330** - Appendix.)

HB 330, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 330**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 8 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Collins moved the adoption of the following Free Conference Committee Report on **HB 8**. Agreed.

The Free Conference Committee on **HB 8** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA version of **HB 8** with the following change: On page 1, line 23, delete "one thousand dollars ($1,000)" and insert in lieu thereof "five hundred dollars ($500)".

Signed: March 29, 2000 - Representatives Collins, Scott, Colter, Childers; Senators Border, Seum, and Moore. The above-named members, in separate votes by house, concur in the provisions of this report.

Representative Collins moved that **HB 8**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 91**, **Nays 2**. (See March 29, 2000 roll call on **HB 8** - Appendix.)

HB 8, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 8**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 16 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative J. Adams moved the adoption of the following Free Conference Committee Report on **HB 16**. Agreed.

The Free Conference Committee on **HB 16** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **HB 16**. as amended by the Senate Committee Substitute, with the following changes:

On page 1, line 12, after "district." by inserting the following:

"An area development district board of directors shall notify legislators of the provisions of this section, and of their right to participate in the activities of the area development district. If a legislator chooses to participate in accordance with this section, the area development district shall send meeting notices to that legislator at the same time board members are notified of the meetings.".

Singed: March 29, 2000 - Representatives J. Adams, A. Arnold, Hoffman, Dw. Butler; Senators Robinson, Kerr, Tori. The above-named members, in separate votes by house, concur in the provisions of this report.

Representative J. Adams moved that **HB 16**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 90, Nays 1**. (See March 29, 2000 roll call on **HB 16** - Appendix.)

HB 16, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 16**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Vincent moved to reconsider the vote by which **HB 231** as amended by Senate Committee Substitute was defeated.

On the roll call the vote was: **Yeas 55, Nays 22**. (See March 29, 2000 roll call on the motion to reconsider the vote by which **HB 231** as amended by Senate Committee Substitute was defeated- Appendix.)

The motion that the vote by which **HB 231** as amended by Senate Committee Substitute was defeated was defeated be reconsidered was adopted.

HB 231, as amended by Senate Committee Substitute with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative J. Turner moved that **HB 231**, as amended by Senate Committee Substitute be passed.

On the roll call the vote was: **Yeas 46, Nays 42**. (See March 29, 1998 roll call on **HB 231** - Appendix.)

HB 231, as amended by the Senate, was passed.

Representative J. Turner moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 231**. Agreed; and the title was agreed to.

Representative J. Turner moved that the vote by which **HB 231**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended, and that members who have filed proper papers for recording votes, be allowed to do so. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HCR 194**:

HCR 194, A CONCURRENT RESOLUTION adjourning the General Assembly until April 11, 2000.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. When the House of Representatives and the Senate adjourn on Wednesday, March 29, 2000, they do so to convene again on Tuesday, April 11, 2000, at a time to be set by motion upon adjournment.

There being no objection **HCR 194** was adopted.

Representative Ballard moved the adoption of the following **Legislative Citation No. 163**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Ron Hunt upon his recent retirement as the esteemed Chief of Police of the Madisonville Police Department where he has served diligently and with great distinction for the past decade. A native of Muhlenberg County and former student at the University of Kentucky and the University of Louisville, he began his career in law enforcement in 1958 with the Kentucky State Police where he served for the next thirty years assigned to numerous posts, including the Elizabethtown and Madisonville Posts, the Executive Security Detail of Governor Julian Carroll, as Detective Sergeant in Criminal Investigations and as Supervisor of the Western Kentucky Regional Driver's Testing Section. After retiring from the KSP in 1988, he was appointed as the first Muhlenberg County police officer and served as its first DARE instructor. Selected as Chief of Police in 1990, his accomplishments included the establishment of a Motor Corps, K-9 Patrol and Field Training Officer Program, and the implementation of Bicycle Patrols, School Resource Officers and Housing Authority Officers. Ron Hunt is also a member of the Madisonville Lions Club, the Kentucky and Western Kentucky Police Chiefs Associations, the Pat Collins FOP Lodge #19, the Kentucky Peace Officers Association and the National Criminal Justice Association. Inasmuch Ron Hunt has served with such bravery and honor, earning the highest regard and esteem of his fellow officers and of those citizens whom he has sworn to protect, the members of this august body are honored to join

Representative Eddie Ballard in commending the immense service of this distinguished gentleman and in extending best wishes for a happy and fulfilling retirement. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 163 was adopted without objection.

Representative Gray moved the adoption of the following **Legislative Citation No. 164**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors The Gentleman from Monroe 53 for his exceptional service to his District and for his friendship to all his colleagues. Inasmuch as this distinguished gentleman has served with such honor and sincerity those citizens whose interests he represents, the members of this most august body do hereby join with Representative J. R. Gray in expressing sincerest appreciation for the courage demonstrated by Representative Billy Polston during his time of illness and further do sincerely wish him well as he seeks medical treatment. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 164 was adopted without objection.

Representative Graham moved the adoption of the following **Legislative Citation No. 160**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Ladies Auxiliary of the Frankfort Elks #530, for the many and generous contributions each has made towards the betterment of the Franklin County community. Generously volunteering countless hours and working tirelessly while promoting and seeing to fruition the many programs and functions sponsored by the Frankfort Elks #530 which include the Local and State Hoop Shoot, the Elks family picnic, the New Year's Eve Dance and functions for needy children and families at Halloween and Christmas, this admired group of civic-minded women has also used their many talents to further the fight against Huntington's disease by raising funds to aid in the research and the struggle for a cure of this devastating disease. For this, and the many other significant contributions made on behalf of both the Frankfort Elks #530 and this community, the entire membership of this prestigious body is delighted to join with Representative Gippy Graham in applauding the members of the Ladies Auxiliary for the remarkable record of community service they have established and in extending warmest wishes for this vital organization's continued success and good fortune. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 160 was adopted without objection.

Representative Draud moved the adoption of the following **HR 190**:

HR 190, A RESOLUTION adjourning the House of Representatives in honor of C. M. Newton upon the occasion of his imminent retirement as athletics director of the University of Kentucky.

It seems appropriate from time to time for this honorable body to reflect upon the contributions of special people who have enriched the lives of many Kentuckians.

WHEREAS, C. M. Newton earned his bachelor's degree and master's degree at the University of Kentucky where he lettered on UK's 1951 NCAA championship basketball team; and

WHEREAS, C. M. Newton's basketball win-loss coaching records include 1956-68 Transylvania University, 169-137; 1969-80 University of Alabama, 211-123; and 1982-89 Vanderbilt University, 129-115; and his coaching achievements have also included winning or sharing Southeastern Conference titles in 1974, 1975, and 1976 at the University of Alabama, the first non-Kentucky coach to achieve a three-peat; he was the recipient of the Southeastern Conference Coach of the Year by the Associated Press in 1972, 1976, 1988, and 1989; and he held the title of United States Men's Olympic team assistant coach in 1984; and

WHEREAS, to mention only a few of his professional achievements, C. M. Newton has been a member of the Board of Directors of the National Association of Basketball Coaches from 1977-80 and 1981-89; he was assistant commissioner of the Southeastern Conference from 1980-81; he was Chairman of the NCAA Basketball Rules Committee from 1979-85; he was president of USA Basketball from 1992-96; he was a member of the NCAA Division I Basketball Committee from 1992-99; and he has been a member of FIBA Central Board since 1994; and

WHEREAS, C. M. Newton has been athletics director of the University of Kentucky since April 1, 1989, and his extraordinary vision brought coaches Rick Pitino, Tubby Smith, and Hal Mumme to UK; with able coaches and C. M. Newton's leadership, UK has reached the NCAA Basketball Tournament finals three consecutive times, twice winning championships; the UK football program went from bottom tier of its conference to consecutive bowl games for the first time since 1983-84; under his auspices, the athletics program expanded to twenty-two varsity sports, the most offered by a Southeastern Conference school; and he has witnessed completion of the Nutter Field House, the establishment of a soccer and softball complex, the construction of an outdoor tennis stadium, the refurbishment of the baseball stadium, and the expansion of Commonwealth Stadium; and

WHEREAS, C. M. Newton has played an invaluable role as athletics director at the University of Kentucky; he has exemplified dedication, professionalism, and high standards in complying with NCAA, SEC, and university rules; and his goals of putting the student athlete first and being nationally competitive in a broad-based sports program, will endure beyond measure; and

WHEREAS, the love of his life, the late Evelyn Newton, always advised him to "leave while you're still in love," and C. M. Newton has taken her advice once again. After an eleven year love affair with the University of Kentucky, he will be retiring as athletics director in June, 2000; and

WHEREAS, in view of the fact that this distinguished gentleman will be retiring, we are reminded that life is composed of two parts; that which is past and that which is to come -- a prologue; and if the past sets the example for the future, C. M. Newton can be assured of continuing a full and meaningful life, filled with the love of his children, Deborah, Tracy, and Martin; his five loving grandchildren; and his abundance of loyal friends;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed honored and proud to recognize C. M. Newton for his many accomplishments in an impressive career that has spanned forty-four years, and we praise him for his many contributions to the University of Kentucky's athletic program, and to the Commonwealth of Kentucky. His accomplishments shall serve as an example for those who succeed him.

Section 2. When the House of Representatives adjourns this day, it does so in honor of C. M. Newton, upon his imminent retirement in June, 2000.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Jon Draud for presentation to C. M. Newton.

There being no objection **HR 190** was adopted.

Representative P. Clark moved the adoption of the following **Legislative Citation No. 158**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Andrea Crank a senior studying political science at the University of Louisville, for impressive contributions and exemplary performance as a legislative intern to Representative Perry B. Clark during the Regular Session of the 2000 General Assembly. Inasmuch as the Kentucky House of Representatives renders enormous tasks during the legislative session, and further, that this distinguished intern has indeed acted as an integral element of support; let it be known that this honorable body hereby commends the exceptional work ethic and dedication exhibited by Andrea Crank and extends its deepest appreciation and gratitude for her outstanding contributions as well as enthusiastic best wishes upon the auspicious occasion of her birthday. Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 158 was adopted without objection.

Representative McKee moved the adoption of the following **HR 179**:

HR 179, A RESOLUTION honoring Legislative Experience 2000, an academic internship program sponsored by the Association of Independent Kentucky Colleges and Universities.

WHEREAS, the essence of education is to use knowledge obtained in the classroom and test its practicality in the world in reality; and

WHEREAS, this understanding leads to this essential melding of the theoretical with the practical; and

WHEREAS, this combination will be instructive to students in the developing and understanding of government to include democracy, politics, and compromise;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby commends interns Amelia Blevins of Midway College, Amanda Ferguson of Lindsey Wilson College, Cirris Barnes of Transylvania University, and Daniel Whitehead of Georgetown College for their enthusiastic participation in the program and commitment to their duties in a professional manner.

Section 2. The House of Representatives commends the Association of Independent Kentucky Colleges and Universities for its initiation of Legislative Experience 2000, a competitive internship program for students attending the Commonwealth's nineteen independent institutions of higher education, and for allowing these interns to develop a broader and deeper understanding of the legislative process.

Section 3. The House of Representatives hereby urges the Association of Independent Kentucky Colleges and Universities, their students, faculty, and officials to continue and expand similar experienced-based educational opportunities in government.

There being no objection **HR 179** was adopted.

Motions, Petitions, and Communications

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that she be recorded as voting "yea" on **HB 144**. Agreed.

Representative Richards moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richards moved that his vote be changed from "nay" to "yea" on **SB 15**. Agreed.

Representative Richards moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richards moved that his vote be changed from "nay" to "yea" on **HB 992**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that he be recorded as voting "nay" on **HB 156**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 156** and **HB 331**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **SB 70**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that his vote be changed from "yea" to "nay" on **HB 156**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **SB 70**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 778**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **HB 156**. Agreed.

Representative Lee moved that the rules be suspended for the purpose of recording a vote.. Agreed.

Representative Lee moved that he be recorded as voting "nay" on **SB 36**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that his vote be changed from "yea" to "nay" on **SB 326** and **SB 263**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative P. Clark moved that he be recorded as voting "nay" on **HB 136** and **SB 36**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 808**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that he be recorded as voting "yea" on **HB 517**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **SB 152**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that his vote be changed from "yea" to "nay" on **HB 389**. Agreed.

Representative Cornett moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cornett moved that his vote be changed from "nay" to "yea" on **HB 356**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **SB 174** and **SB 217**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that her vote be changed from "yea" to "nay" on **HB 231**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **HB 331**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **Adjournment**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **Adjournment**. Agreed.

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative DeWeese moved that his vote be changed from "yea" to "nay" on **HB 938**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that he be recorded as voting "yea" on **HB 488**. Agreed.

Representative Draud moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Draud moved that he be recorded as voting "yea" on **HB 405**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that his vote be changed from "nay" to "yea" on **HB 161**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 462**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **SB 212**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "nay" on **SB 152**. Agreed.

Representative Draud moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Draud moved that he be recorded as voting "yea" on **HB 144**. Agreed.

Floor Amendments

Floor Amendment No. 3 to **SB 3**, by Representative Palumbo-

On page 1, after line 16, insert:

"Section 2. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death ***and loss of decedent's enjoyment of life*** from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased.

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution."

Floor Amendment No. 4 Title to **SB 3**, by Representative Palumbo:

By amending the title to read as follows: "AN ACT relating to liability."

Floor Amendment No. 1 to **SB 1**, by Representative Stumbo:

On page 35, between lines 14 and 15 by inserting the following:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A school council, under KRS 160.345, or if none exists, the school, may adopt a course of study that includes an elective course in history, civilization, ethics, comparative religion, literature, or other subject area that uses religious or scriptural texts, including the Bible, as instructional material. As an element of the course curriculum, the Ten Commandments, and other religious, literary, or historical documents may be posted, if the posting is appropriate to the overall educational purpose of the course.

(2) The curriculum and instructional practice of a course using religious or scriptural texts as instructional materials shall:

(a) Incorporate religious or scriptural texts in a manner that is academic, balanced, and objective, not devotional; and

(b) Not favor or disfavor religion, or any particular religious belief." and

On page 35, line 15 by deleting "16" and inserting "17" in lieu thereof.

Floor Amendment No. 2 Title to **SB 1**, by Representative Stumbo:

By amending the title to read as follows:

"AN ACT relating to education."

Floor Amendment No. 7 to the House Committee Substitute to **SB 289**, by Representative Stumbo:

On page 9, following line 10, by inserting:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 9, Title, to the House Committee Substitute to **SB 289**, by Representative Stumbo:

By amending the title to read as follows:
"AN ACT relating to the public interest."

Floor Amendment No. 7 Title to **SB 195**, by Representative Stumbo:

By amending the title to read as follows:
"AN ACT relating to the public interest."

Floor Amendment No. 6 to **SB 195**, by Representative Stumbo:

On page 11, following line 15, by inserting:
"SECTION 15. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 8 to the House Committee Substitute to **SB 289**, by Representative Stumbo:

On page 9, following line 10, by inserting:
"SECTION 9. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 5 to **SB 195**, by Representative Stumbo:

On page 11, following line 15, by inserting:
"SECTION 15. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 6 Title to **SB 289**, by Representative Stumbo:

By amending the title to read as follows:
"AN ACT relating to the public interest."

Floor Amendment No. 5 to **SB 289**, by Representative Stumbo:

On page 9, following line 10, by inserting:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 4 to **SB 289**, by Representative Stumbo:

On page 9, following line 10, by inserting:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 9 to **SB 23**, by Representative Stumbo:

On page 3, by inserting the following after line 23:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 6 Title to **SB 15**, by Representative Stumbo:

By amending the title to read as follows:

"AN ACT relating to state government."

Floor Amendment No. 5 to **SB 15**, by Representative Stumbo:

On page 4, following line 13, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 4 to **SB 15**, by Representative Stumbo:

On page 4, following line 13, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 7 Title to **SB 223**, by Representative Stumbo:

By amending the title to read as follows

"AN ACT relating to the public interest."

Floor Amendment No. 6 to **SB 223**, by Representative Stumbo:

On page 3, following line 7, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

On page 3, line 8, by deleting "3", and inserting "4" in lieu thereof.

Floor Amendment No. 6 Title to **SB 248**, by Representative Stumbo:

By amending the title to read "AN ACT relating to the public interest.".

Floor Amendment No. 4 to the House Committee Substitute to **SB 248**, by Representative Stumbo:

On page 2, after line 14, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 4 to **SB 275**, by Representative Stumbo:

On page 7, after line 19, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in *the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.*".

Floor Amendment No. 2 to the House Committee Substitute to **SB 315**, by Representative Stumbo:

On page 48, after line 5, by adding the following:

"SECTION 26. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

By renumbering the remaining sections accordingly.

Floor Amendment No. 4 Title to **SB 315**, by Representative Stumbo:

By amending the title to read "AN ACT relating to the public interest.".

Floor Amendment No. 6 to **SB 218**, by Representative Stumbo:

On page 32, following line 11, by inserting:

"SECTION 18. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

On page 32, line 12, by deleting "18" and inserting in lieu thereof "19".

Floor Amendment No. 7 Title to **SB 218**, by Representative Stumbo:

By amending the title to read as follows:

"AN ACT relating to the public interest."

Floor Amendment No. 5 to **SB 218**, by Representative Stumbo:

On page 32, following line 11, by inserting:

"SECTION 18. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one

(1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

On page 32, line 12, by deleting "18" and inserting in lieu thereof "19".

Floor Amendment No. 3 Title to **SB 42**, by Representative Stumbo:

By amending the title to read "AN ACT relating to the public interest.".

Floor Amendment No. 2 to **SB 42**, by Representative Stumbo:

On page 4, after line 8, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 1 to **SB 42**, by Representative Stumbo:

On page 4, after line 8, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 5 to the House Committee Substitute to **SB 248**, by Representative Stumbo:

On page 2, after line 14, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 1 to **SB 347**, by Representative Stumbo:

On page 5, after line 27, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing executive biennial budget the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 4 to **SB 349**, by Representative Stumbo:

On page 127, after line 8, by inserting the following:

"SECTION 56. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing executive biennial budget the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 5 to **SB 349**, by Representative Stumbo:

On page 127, after line 8, by inserting the following:

"SECTION 56. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing legislative biennial budget the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing judicial biennial budget the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 6 Title to **SB 349**, by Representative Stumbo:

By amending the title to read: "AN ACT relating to the functions of government."

Floor Amendment No. 5 Title to **SB 1**, by Representative Stumbo:

By amending the title to read "AN ACT relating to the functions of government."

Floor Amendment No. 3 to **SB 1**, by Representative Stumbo:

On page 35, after line 14, by inserting the following:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing legislative biennial budget the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing judicial biennial budget the Chief Justice may declare an emergency and administer the operations, maintenance, support and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law."; and

On page 35, line 15, by renumbering "Section 16" as "Section 17".

Floor Amendment No. 3 Title to **SB 350**, by Representative Stumbo:

By amending the title to read: "AN ACT relating to the functions of government."

Floor Amendment No. 1 to **SB 350**, by Representative Stumbo:

On page 3, after line 21, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing legislative biennial budget the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing judicial biennial budget the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 3 to the House Committee Substitute to **SB 314**, by Representative Stumbo:

On page 2, after line 26, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing legislative biennial budget the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing judicial biennial budget the Chief Justice may declare an emergency and administer the

operations, maintenance, support and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 2 to **SB 350**, by Representative Stumbo:

On page 3, after line 21, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing executive biennial budget the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 4 to the House Committee Substitute to **SB 314**, by Representative Stumbo:

On page 2, after line 26, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing executive biennial budget the Governor may declare an emergency and administer the operations, maintenance, support and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 5 Title to **SB 314**, by Representative Stumbo:

By amending the title to read: "AN ACT relating to the functions of government."

Floor Amendment No. 4 to **SB 309**, by Representative Stumbo:

On page 2, after line 26, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 5 Title to **SB 309**, by Representative Stumbo:

By amending the title to read as follows: "AN ACT relating to the functions of government."

Floor Amendment No. 3 to **SB 309**, by Representative Stumbo:

On page 2, after line 26, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 8 Title to **SB 227**, by Representative Stumbo:

By amending the title to read as follows: "AN ACT relating to the public interest."

Floor Amendment No. 4 Title to **SB 4**, by Representative Stumbo:

By amending the title to read as follows: "AN ACT relating to the functions of government."

Floor Amendment No. 2 to **SB 4**, by Representative Stumbo:

On page 1, after line 14, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

Floor Amendment No. 3 to **SB 4**, by Representative Stumbo:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 5 Title to **SB 409**, by Representative Stumbo:

By amending the title to read as follows: "AN ACT relating to the functions of government."

Floor Amendment No. 2 to **SB 347**, by Representative Stumbo:

On page 5, after line 27, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the

contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing legislative biennial budget the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing judicial biennial budget the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.".

Floor Amendment No. 3 Title to **SB 347**, by Representative Stumbo:

By amending the title to read: "AN ACT relating to the functions of government."

Floor Amendment No. 4 to the House Committee Substitute to **SB 409**, by Representative Stumbo:

On page 27, after line 7, by inserting the following:

"SECTION 20. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

On page 27, line 8, by deleting "20" and inserting in lieu thereof "21".

Floor Amendment No. 3 to the House Committee Substitute to **SB 409**, by Representative Stumbo:

On page 27, after line 7, by inserting the following:

"SECTION 20. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

On page 27, line 8, by deleting "20" and inserting in lieu thereof "21".

Floor Amendment No. 4 to **SB 1**, by Representative Stumbo:

On page 35, after line 14, by inserting the following:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing executive *biennial budget the Governor may declare an emergency and administer the operations, maintenance, support and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediate preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law.*"; and

On page 35, line 15, by renumbering "Section 16" as "Section 17".

Floor Amendment No. 7 to the House Committee Substitute to **SB 227**, by Representative Stumbo:

On page 43, after line 8, by inserting the following:

"SECTION 23. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 6 to the House Committee Substitute to **SB 227**, by Representative Stumbo:

On page 43, after line 8, by inserting the following:

SECTION 23. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

Floor Amendment No. 3 to the House Committee Substitute to **SB 315**, by Representative Stumbo:

On page 48, after line 5, by adding the following:

"SECTION 26. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

By renumbering the remaining sections accordingly.

Floor Amendment No. 5 to **SB 275**, by Representative Stumbo:

On page 7, after line 19, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the

Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 6 Title to **SB 275**, by Representative Stumbo:

By amending the title to read "AN ACT relating to the public interest.".

Floor Amendment No. 8 to **SB 23**, by Representative Stumbo:

On page 3, by inserting the following after line 23:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 10 Title to **SB 23**, by Representative Stumbo:

On page 1, by changing the title to "AN ACT relating to state government.".

Floor Amendment No. 5 to **SB 223**, by Representative Stumbo:

On page 3, following line 7, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

On page 3, line 8, by deleting "3", and inserting "4" in lieu thereof.

Floor Amendment No. 4 to **SB 323**, by Representative Stumbo:

On page 4, by inserting the following after line 20:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 5 Title to **SB 323**, by Representative Stumbo:

On page 1, by changing the title to "AN ACT relating to state government.".

Floor Amendment No. 3 to **SB 323**, by Representative Stumbo:

On page 4, by inserting the following after line 20:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 7 Title to **SB 3**, by Representative Stumbo:

By amending the title to read "AN ACT relating to the public interest.".

Floor Amendment No. 6 to **SB 3**, by Representative Stumbo:

On page 1, after line 16, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill prior to the expiration of the existing biennial budget, the Governor may declare an emergency and administer the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

Floor Amendment No. 5 to **SB 3**, by Representative Stumbo:

On page 1, after line 16, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the

Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one (1) fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.".

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested pursuant to state law."

Floor Amendment No. 6 to the House Committee Substitute to **SB 409**, by Representative Stumbo:

On page 27, after line 7, by inserting the following:

"SECTION 20. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."; and

On page 27, line 8, by deleting "20" and inserting in lieu thereof "21".

Floor Amendment No. 4 to **SB 309**, by Representative Stumbo:

On page 2, after line 26, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law."

Floor Amendment No. 5 to **SB 4**, by Representative Stumbo:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of

Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.

(2) ***Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.***"

Floor Amendment No. 9 to the House Committee Substitute to **SB 227**, by Representative Stumbo:

On page 43, after line 8, by inserting the following:

"SECTION 23. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) ***Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the judicial branch prior to the expiration of the existing biennial budget, the Chief Justice may declare an emergency and administer the operations, maintenance, support, and functioning of the judicial branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.***

(2) ***Notwithstanding any provisions of KRS Chapter 48 or any other provisions of the Kentucky Revised Statutes to the contrary, in the event the General Assembly fails to enact a general appropriations bill for the legislative branch prior to the expiration of the existing biennial budget, the Legislative Research Commission may declare an emergency and administer the operations, maintenance, support, and functioning of the legislative branch of government of the Commonwealth of Kentucky with public funds in an amount not to exceed appropriations provided for the immediately preceding fiscal year, for a period not to exceed one fiscal year. Revenues received by the Commonwealth in excess of appropriations under this section shall be invested in accordance with state law.***"

Floor Amendment No. 5 to the House Committee Substitute to **SB 315**, by Representative Stumbo:

By deleting all the language after the enacting clause and inserting in lieu thereof the following:

"Section 1. The General Fund, Road Fund, restricted funds amounts, or federal funds amounts appropriated in fiscal year 1999-2000 under Part I of the Operating budget contained in 1998 House Bill 321, Acts Chapter 615, are appropriated for fiscal year 2000-2001, and fiscal year 2001-2002, for the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units in the state government.

Section 2. The language provisions of Part I of the Operating budget contained in 1998 House Bill 321, Acts Chapter 615, shall apply to the appropriations contained in Section 1 of this Act subject to the provisions of KRS 48.500.".

Floor Amendment No. 6 to the House Committee Substitute to **SB 315**, by Representative Stumbo:

By deleting all the language after the enacting clause, and inserting in lieu thereof the following:

"Section 1. The General Fund, Road Fund, restricted funds amounts, or federal funds amounts appropriated in fiscal year 1999-2000 under Part I of the Operating budget contained in 1998 House Bill 320, Acts Chapter 604, are appropriated for fiscal year 2000-2001, and fiscal year 2001-2002, for the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units in the state government.

Section 2. The language provisions of Part I of the Operating budget contained in 1998 House Bill 320, Acts Chapter 604, shall apply to the appropriations contained in Section 1 of this Act subject to the provisions of KRS 48.500.

Section 3. The General Fund, Road Fund, restricted funds amounts, or federal funds amounts appropriated in fiscal year 1999-2000 under Part I of the Operating budget contained in 1998 House Bill 319, Acts Chapter 432, are appropriated for fiscal year 2000-2001, and fiscal year 2001-2002, for the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units in the state government.

Section 4. The language provisions of Part I of the Operating budget contained in 1998 House Bill 319, Acts Chapter 432, shall apply to the appropriations contained in Section 3 of this Act subject to the provisions of KRS 48.500.".

Floor Amendment No. 7 Title to **SB 315**, by Representative Stumbo:

By amending the title to read as follows: "AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities."

Floor Amendment No. 7 to the House Committee Substitute to **SB 409**, by Representative Stumbo:

On page 27, after line 9, by inserting the following:

"Section 21. The General Fund, Road Fund, restricted funds amounts, or federal funds amounts appropriated in fiscal year 1999-2000 under Part I of the Operating budget contained in 1998 House Bill 321, Acts Chapter 615, are appropriated for fiscal year 2000-2001, and fiscal year 2001-2002, for the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units in the state government.

Section 22. The language provisions of Part I of the Operating budget contained in 1998 House Bill 321, Acts Chapter 615, shall apply to the appropriations contained in Section 21 of this Act subject to the provisions of KRS 48.500.".

Floor Amendment No. 8 to the House Committee Substitute to **SB 409**, by Representative Stumbo:

On page 27, after line 9, by inserting the following:

"Section 21. The General Fund, Road Fund, restricted funds amounts, or federal funds amounts appropriated in fiscal year 1999-2000 under Part I of the Operating budget contained in 1998 House Bill 320, Acts Chapter 604, are appropriated for fiscal year 2000-2001, and fiscal year 2001-2002, for the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units in the state government.

Section 22. The language provisions of Part I of the Operating budget contained in 1998 House Bill 320, Acts Chapter 604, shall apply to the appropriations contained in Section 21 of this Act subject to the provisions of KRS 48.500.

Section 23. The General Fund, Road Fund, restricted funds amounts, or federal funds amounts appropriated in fiscal year 1999-2000 under Part I of the Operating budget contained in 1998 House Bill 319, Acts Chapter 432, are appropriated for fiscal year 2000-2001, and fiscal year 2001-2002, for the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units in the state government.

Section 24. The language provisions of Part I of the Operating budget contained in 1998 House Bill 319, Acts Chapter 432, shall apply to the appropriations contained in Section 23 of this Act subject to the provisions of KRS 48.500.".

Floor Amendment No. 9 Title **SB 409**, by Representative Stumbo:

By amending the title to read as follows: "AN ACT relating to financing the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities, making appropriations therefor, and declaring an emergency."

Floor Amendment No. 6 to House Floor Amendment No. 1 to **SB 1**, by Representative Cox:

On page 1, by inserting the following between the next to last and last lines in the body of the amendment:

"***(3) A school council, under KRS 160.345, or if none exists, the school, shall post the preamble to the Constitution of the Commonwealth of Kentucky in all public school classroom buildings, as follows: "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political, and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution."*** ".

Floor Amendment No. 7 to House Floor Amendment No. 1 to **SB 1**, by Representative Cox:

On page 1, by inserting the following between the next to last and last lines in the body of the amendment:

"***(3) No school curriculum or instructional practice of any elective or nonelective course shall:***

(a) Validate homosexuality or suggest that the gay and lesbian lifestyles are normative. Education equity as it affects students shall not encompass sexual orientation; or

(b) Advance witchcraft or occult practices.".

Motions, Petitions, and Communications

The following member has filed a request to have his name added as a co-sponsor of a Bill under rules previously suspended:

HB 258: Representative Miller

The following member has filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

HB 517: Representative Heleringer

Adjournment

Representative Stumbo moved that the House adjourn until 12:00 noon, April 11, 2000.

On the roll call the vote was **Yeas 74**--R. Adams, Adkins, Allen, Anderson, A. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bowling, Branham, Bratcher, Bruce, Buckingham, Burch, D. Butler, D. D. Butler, Callahan, Cherry, L. Clark, Coleman, Collins, Colter, Cornett, Cox, Crimm, Damron, DeWeese, Draud, Fischer, Geveden, Gooch, Graham, Gray, Haydon, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Marcotte, Marzian, McKee, Miller, Moberly, Napier, Nunn, Palmer, Palumbo, Polston, Rasche, Ratliff, Reinhardt, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stumbo, Thomas, Thompson, J. Turner, Upchurch, Vincent, Wayne, Weaver, Webb, Westrom, Wilkey. **Nays 10**--Alexander, Cave, P. Clark, Crall, Feeley, Ford, Kerr, Stein, Stewart, Treesh.

The motion to adjourn was adopted.

APRIL 11, 2000

FIFTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Charles Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 29, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 8, HB 16, HB 144, HB 330, HB 331, HB 371, HB 389, HB 517, HB 636, HB 645, HB 685, HB 728, HB 739, HB 763, HB 778, HB 825, HB 902, HCR 18, HB 231,** and **HB 366** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -12:15 p.m.)

Veto Message

The veto message on **HB 856** is as follows:

I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto **House Bill 856** as passed by the 2000 Regular Session of the Kentucky General Assembly. I exercise this authority for the following reasons:

House Bill 856 appears unconstitutional because it vests the regulations compiler with authority reserved for the executive branch under the constitutional doctrine of the separation of powers. It also appears to allow for an unconstitutional legislative veto during regular sessions of the General Assembly. It is entirely appropriate for the General Assembly to override regulations as inconsistent with legislative intent trough its constitutional lawmaking process; however, the procedure established in this bill violates constitutional principals. Done this 7th day of April, 2000 in Frankfort, Kentucky at 4:00 p.m.

The veto message on **HB 946** is as follows:

I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto **House Bill 946** as passed by the 2000 Regular Session of the Kentucky General Assembly. I exercise this authority for the following reason:

House Bill 946 was an effort to make it easier for state employees to be reimbursed for work-related travel requiring an overnight stay. However, it appears the enacted version of the bill fails to accomplish this purpose. The sponsor of the bill has been consulted prior to this veto message and the Finance and Administration Cabinet has agreed to attempt to accommodate the sponsor's intended purpose within the confines of existing statutory authority. Done this 7th day of April, 2000 in Frankfort, Kentucky at 4:00 p.m.

Report of Committees

A Free Conference Committee Report was filed on **SB 49**.

A Free Conference Committee Report was filed on **SB 77**.

Senate Message

Announcing passage of **HB 142, HB 736, HB 892,** and **HJR 142**. (Time: 12:10 p.m.)

Message in regard to **SB 58**: The Senate has concurred in the House Committee Substitute to **SB 58** but refused to concur in the House Floor Amendment No. 1 and respectfully returns it with the request that this Honorable Body recede from the Amendment.

Message in regard to **HB 100**: The Senate has adopted the Free Conference Committee Report on **HB 100** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 629**: The Senate has adopted the Free Conference Committee Report on **HB 629** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 677**: The Senate has adopted the Free Conference Committee Report on **HB 677** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 992**: The Senate has adopted the Free Conference Committee Report on **HB 992** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 608**: The Senate has refused to recede from it's Senate Floor Amendment No. 2, Senate Floor Amendment No. 4, Senate Floor Amendment No. 6, Senate Floor Amendment No. 7, Senate Floor Amendment No. 8, and Senate Floor Amendment No. 9 to **HB 608** and is respectfully asking for a Conference Committee to be appointed.

Message in regard to **SB 15**: The Senate does hereby request the return of **SB 15** with House Amendments to the Senate for further consideration.

Introduction of Resolutions

HR 193, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard F. Pardy.

HR 195, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William Willis Wichman.

Report of Committees (Continued)

The Committee on Rules reported that **SB 224, SB 256, SB 260, SB 261, SB 313, SB 317, SB 335,** and **SB 398** have been posted for passage in the Orders of the Day for April 12, 2000.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 608**: Representatives Palmer, Chairman; Damron and Crimm.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 11, SB 21, SB 36, SB 39, SB 44, SB 51, SB 52, SB 57, SB 62, SB 69, SB 76, SB 91, SB 107, SB 111, SB 116, SB 128, SB 130, SB 139, SB 152, SB 159, SB 163, SB 167, SB 198, SB 207, SB 217, SB 218, SB 223, SB 227, SB 229, SB 245, SB 247, SB 263, SB 279, SB 280, SB 287, SB 288, SB 305, SB 347, SJR 57, SJR 107,** and **SB 70** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:25 a.m.)

HB 58, HB 156, HB 202, HB 213, HB 216, HB 248, HB 392, HB 420, HB 421, HB 453, HB 454, HB 465, HB 519, HB 538, HB 544, HB 563, HB 579, HB 667, HB 678, HB 689, HB 709, HB 712, HB 725, HB 734, HB 756, HB 757, HB 822, HB 830, HB 843, HB 866, HB 887, HB 895, HB 897, HB 944, HB 999, HCR 88, HJR 113, HJR 122, and **HCR 47** delivered to the Senate and signed by the President. Delivered to the Governor on April 11, 2000, at 11:03 a.m.

Report of Committees (Continued)

The Speaker announced the appointment of the following members to serve on a Free Conference Committee on **HB 608**: Representatives Palmer, Chairman; Damron and Crimm.

Representative Lindsay moved the adoption of the following **Legislative Citation No. 179**.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates David B. and Joan S. Burklow on the occasion of their Golden Wedding Anniversary. The celebration of fifty years of beloved companionship constitutes an exceptional marriage. This honorable body holds in high esteem the extraordinary abilities of this devoted couple to cultivate and nurture a loving family and cherished friendships. The members of this august body are delighted, therefore, to join with Representative Gross C. Lindsay in paying tribute to Mr. and Mrs. Burklow and in extending sincere wishes for their continued happiness and fulfillment. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 179 was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 165**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the 2000 Mock Trial Team of Montgomery County High School upon winning both the Eastern Regional Championship and the Kentucky State Championship, counting among its members, Amy Carrington, who was named the State's Outstanding Witness. Participation in this exciting educational experience, sponsored by the Kentucky Bar Association, the Department of Education and the Administrative Office of the Courts, helps students increase basic life and leadership skills and increases understanding of the historical, ethical and philosophical basis of the judicial system. Designed to offer students a positive experience with the legal system, this program strives to build bridges of mutual cooperation, respect and support between the education community and the legal profession. The members of this esteemed body are pleased to join with Representative Adrian Arnold in commending these remarkable scholars from Montgomery County High School for taking part in this worthwhile competition that reflects an outstanding commitment to excellence in academic achievement. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 165 was adopted without objection.

Representative Palumbo moved the adoption of the following **HR 193**:

HR 193, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard F. Pardy.

With deepest respect and admiration, we pay homage and tribute to Richard F. Pardy, and we pause in silent reverence for his soul.

WHEREAS, Richard F. Pardy, a native of Madison, South Dakota, and longtime resident of Lexington, Fayette County, Kentucky, traversed these earthly bounds on January 16, 2000; he was the loving son of the late James G. and Inez Sheehy Pardy; he was the devoted husband of Celestine Smallcomb Pardy; and he was the loving brother of three sisters, Sister Mary Pardy of Techny, Illinois, Peg Koch of Minneapolis, Minnesota, and Pat Fuger of San Diego, California; and four brothers, Dan Pardy of Clearwater, Florida, Steve Pardy of Chicago, Illinois, Tom Pardy of Howard, South Dakota, and Mark Pardy of Minneapolis, Minnesota; and he was the uncle of many nieces, nephews, great-nieces, and great-nephews; and

WHEREAS, Richard F. Pardy graduated from the University of South Dakota with a degree in English and Theatrical Literature and American History; he completed his Master of Fine Arts degree at Catholic University of America in Washington, D. C., with a major in theater directing, history, and production stage management; and while in Washington, D. C., he was a teacher of technical theater and production for the National Cathedral School and the Olney Theater in Olney, Maryland; he was assistant stage manager for the Shakespeare Summer Festival at the Washington Monument, and in the following year, became its production stage manager; after leaving Washington in 1968, he was employed by the Defense Department as Special Services Entertainment Director, and he was assigned to the Seventh Infantry Division in Korea where he was the director of his first entertainment facility and theater for fourteen months, after which time he returned to Washington, D. C., and the Shakespeare Festival for "The Tempest"; he continued his career in acting, stage management, and directing in New York City where he became an Associate Producer for two Broadway revivals, "On The Town" and "A Funny Thing Happened On The Way To The Forum"; he co-produced the American revision of "Windy City", and he produced Athol Fugard's "My Children! My Africa!"; and

WHEREAS, in 1974, Richard F. Pardy accepted the position as the first Arts Administrator funded by the Kentucky Arts Commission, and while in that capacity, he established the City-County Arts Council of Paducah; he came to Lexington in 1976 to accept the responsibility of the operational and program design of the Opera House, and at the time of his passing, he was the Director for Performing Arts (Sales and Services) for Lexington Center Corporation with primary duties being the Opera House in Lexington; and he was the Presenting Director of programs known as Broadway and Variety, LIVE series, nationally known as "the little/big theater that could"; and

WHEREAS, Richard F. Pardy was a member of the International Association of Auditorium Managers, the Association of Performing Arts Presenters, the International Society for the Performing Arts Administrators, and he was a charter member of the League of Historic American Theaters and a member of the National Touring Theater Council of the League of American

Theaters and Producers, where he was instrumental in the Lexington and Fayette County community having voting rights in the annual Antoinette Perry TONY Awards process; and

WHEREAS, Richard F. Pardy was a recent recipient of the Leaders in the Arts Award given by the Lane Report for his dedicated and continued service to the arts, and he lead a theater consulting team with rfp Productions on the design of the twelve million dollar economic development/cultural center for the University of Kentucky, Community College Campus at Somerset; and

WHEREAS, the passing of Richard F. Pardy has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement upon the passing of Richard F. Pardy, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Richard F. Pardy.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Ruth Ann Palumbo for presentation to the family of Richard F. Pardy.

There being no objection **HR 193** was adopted.

Representative Palumbo moved the adoption of the following **HR 195**:

HR 195, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William Willis Wichman.

With deepest respect and admiration, we pay homage and tribute to William Willis Wichman, and we pause in silent reverence for his soul.

WHEREAS, William Willis Wichman was born on January 18, 1921, a native of Covington, Kenton County, Kentucky, and he traversed these earthly bounds on March 23, 2000; and

WHEREAS, William Willis Wichman was the loving son of the late John and Elma Scherder Wichman; he was the devoted husband of Adalin Stern Wichman; and he was the loving father of Adrian Wichman of Lexington and Alison Wichman of Potomac, Maryland; and

WHEREAS, William Willis Wichman graduated from the University of Kentucky in 1947; and served his country with pride in the United States Army during World War II as an infantry company commander in the Philippines and Japan, and, later, was a captain in the United States Army Reserves; and

WHEREAS, William Willis Wichman was a retired architect and engineer, and he served as past president of the Kentucky Chapter of the American Institute of Architects; during the 1950's, he was an architecture professor at the University of Indonesia as part of an educational alliance between the University of Kentucky and the Indonesian government, and later, was a consultant to the University of Indonesia; and

WHEREAS, William Willis Wichman retired from Wichman and Sallee Architect and Engineers in 1995, and is best remembered for his involvement in the design and construction of buildings on the University of Kentucky campus, International Business Machines Corporation buildings, structures at Fort Knox, and courthouses in Lee and Perry counties; and he was also involved in the design and construction of the old Wolfe Wile building, Central Baptist Hospital, and an addition to the old Phoenix Hotel in Lexington; and

WHEREAS, the passing of William Willis Wichman has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement upon the passing of William Willis Wichman, and extends to his family and friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of William Willis Wichman.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Ruth Ann Palumbo for presentation to the family of William Willis Wichman.

There being no objection **HR 195** was adopted.

Representative Thomas moved the adoption of the following **Legislative Citation No. 175**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Ephram White and offers its sincerest condolences to the White Family and to all those who share in the loss of this distinguished Kentucky citizen. A native of Warren County and longtime resident of Richardsville, Kentucky, he was the loving son of the late Ewell White and Mabel Clark White; the devoted husband of Imogene Bratcher White; the cherished father of Lonnie Ewell White; and the proud grandfather of Renee White. Following his graduation from Richardsville High School, Ephram White served his country with distinction in the United States Army and his constituents from the 5th Magisterial District in Warren County with pride for twenty-nine years. An outstanding citizen who believed in giving back to the community, he further served on the Warren Rural Electric Advisory Committee, the National Corvette Museum Executive Board, the Warren County Solid Waste Plan Advisory Committee, as Sub-Committee Chairman of Illegal Dumping, on the Citizens Planning Task Force for Warren County, the Commonwealth Health Corporation, the National City Board of Directors, the Southern States Board of Directors, as Chairman of the Justice Center Planning Committee, and was recognized for dedicated services by the Modern Woodman of America. The members of this most honorable body join with Speaker Jody Richards in adjourning this legislative day in memory and honor of Ephram White for the contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 175 was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 176**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of B.L. "Bernie" Steen, Sr. and to join with Speaker Jody Richards in expressing profound sympathy to all who share in the loss on the passing of this remarkable gentleman, the loving son of the late A.F. Steen and Eva Glover Steen; the devoted husband of Carole Miller Steen; the beloved father of Mike Steen, Bill Steen, Bernie Steen, Jr., and Cheri Steen Randolph, and stepfather of Lisa Thomas Patton, Kevin Thomas, Kelly Thomas and Troy Thomas; the cherished brother of Mildred Denning; and the proud grandfather of sixteen grandchildren and eight great-grandchildren. A native of Toledo, Ohio, Bernie Steen was an Army veteran, a retired plumbing contractor and a man who served the city of Bowling Green with distinction. Having served as mayor and city commissioner, he was actively involved with the Bowling Green-Warren County Jaycees, the Southern Kentucky Fair Board, the Bowling Green Girls Club Board of Directors, the Bowling Green Area Chamber of Commerce, was a member of the Commonwealth Health Corporation Board of Directors, the Medical Center Board of Directors, and the Bowling Green-Warren County Hospital Board. Further he was a lifetime member and former board member of the Kentucky Association of Plumbing Contractors and past president and treasurer of the South Central Plumbing Contractors. Devoted to his family and friends, his memory will continue to be an inspiration to all whose lives were touched by his presence and will continue to serve as a beacon for others to follow. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 176 was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 177**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of George Carlisle Cheatham, M.D. and offers its sincerest condolences to the Cheatham family and to all those who share in the loss of this distinguished and admired native of Adair County, Kentucky. The son of the late Robert E. Cheatham and Eva Tucker Cheatham; cherished husband of Sue Oldham Cheatham; beloved father of George "Lisle" Cheatham II and Nick Cheatham; adored father-in-law of Jean Cheatham and doting grandfather of Evie M. Cheatham, Dr. Cheatham was a graduate of the University of Louisville Medical School and practiced medicine for thirty-seven years, thirty five of which were in Green County. In addition to the contributions he made to his profession, he gave generously of his time and talents as an active and devoted member of the Columbia Masonic Lodge, both the Kentucky and American Medical Associations, the Alumni Associations of the University of Louisville, Lindsay Wilson College and Centre College, Sigma Chi and Alpha Kappa Kappa Fraternity and the Green County Sportsman Club. He will long be remembered for the tireless enthusiasm he demonstrated while working for the betterment of the Green County community. The esteemed members of this honorable body do solemnly join with Speaker Jody Richards in honoring the memory of George Carlisle Cheatham for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 177 was adopted without objection.

Representative Callahan moved the adoption of the following **Legislative Citation No. 174**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Laura Weis for the skill and competence with which she has served the Kentucky General Assembly for the past eight years as the chief photographer for the Public Information Staff of the Legislative Research Commission. Under her guidance, the thousands of photographs which will forever document the Kentucky General Assembly of the 1990's were taken, printed and distributed. A consummate professional, her good-natured and conscientious work ethic has been deeply appreciated by all who have worked with her and will be sincerely missed as she departs to spend more time with her young children. The members of this honorable body are pleased to join Representative Jim Callahan in expressing sincere gratitude to Laura Weis for her faithful years of service and in extending warmest wishes for her continuing success and good fortune. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 174 was adopted without objection.

Representative P. Clark moved the adoption of the following **Legislative Citation No. 178**.

The members of the House of Representatives of the Commonwealth of Kentucky hereby recognize and honor Randy Atcher Louisville's most famous singing cowboy and one of the treasured personalities of this great Commonwealth. Born on December 7, 1918, in the town of Tip Top in Hardin County, he grew up near West Point, Kentucky. This talented entertainer began his career with WHAS-Radio, hosting Kentucky Barn Dance, in 1933. His television debut was with T-Bar-V Ranch on WHAS-TV, a beloved children's program that he hosted with his dear friend and sidekick, Cactus Tom Brooks, and which aired for over twenty years. In 1951, he became associated with Hayloft Hoe-down, another long-running program that was enjoyed by local viewers for nearly twenty years. Randy Atcher also performed in Chicago with the WLS Barn Dance and in Nashville at the Grand Ole Opry. Randy Atcher recently performed with the Grand Ole Opry Staff Band, which included the musical greats, Charlie Walker, Little Jimmy Dickens, Jeanie Prewitt, Jack Greene, Jimmy C. Newman, Jim Ed Brown and the Melvin Sloane Dancers. This Rockabilly Hall of Fame Inductee was further honored as a 1994 recipient of the Alexander Scourby Narrator of the Year Award, given by the American Foundation for the Blind for his many years of service reading for the Talking Books program. Further contributing to the charitable efforts of his community, Randy Atcher has generously performed for forty-seven years for the WHAS Crusade for Children since its beginning, recently being joined in Crusade performances by "Sagebrush," the Clown. Inasmuch as Randy Atcher has contributed greatly to the richness of the entertainment industry in this Commonwealth, the members of this august body are delighted to join with Representative Perry B. Clark in expressing gratitude to him for his most welcome presence in the House Chambers on March 29, 2000, during the Regular Session of the Kentucky General Assembly and in extending warmest wishes for his continued success and good fortune. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 178 was adopted without objection.

Representative Ausmus moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ausmus moved that he be recorded as voting "yea" on **HB 420, HB 438, HB 452, HB 539, HB 706, HB 712, HB 728, HB 733, HB 777, HB 788, HB 10, HB 79, HB 85, HB 161, HB 206, HB 405, HB 165, HB 765, HB 685, HB 259, HB 296, HB 310, HB 330, HB 385, HB 827, HB 865, HB 875, HB 910, SB 11,** and **SB 36**. Agreed.

Representative Ausmus moved that he be recorded as voting "yea" on the motion to reconsider the vote on **SB 119, SB 152, SB 194, SB 212, SB 218,** and **HB 397**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 3:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

HB 8, HB 16, HB 144, HB 330, HB 331, HB 371, HB 389, HB 517, HB 636, HB 645, HB 685, HB 728, HB 739, HB 763, HB 778, HB 825, HB 902, HCR 18, HB 231, and **HB 366** delivered to the Senate and signed by the President. Delivered to the Governor on April 11, 2000, at 1:43 p.m.

Senate Message (Continued)

Announcing passage of **HB 268**. (Time: 3:15 p.m.)

Message in regard to **SB 170**: The Senate has concurred by way of House Committee Substitute, House Floor Amendment No. 1, and House Floor Amendment No. 2 to **SB 170** but refused to concur in House Floor Amendment No. 4 and House Floor Amendment No. 5 and respectfully returns it with the request that this Honorable Body recede from the Amendments.

Message in regard to **HB 842**: The Senate has passed **HB 842** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 275**: The Senate has adopted the Free Conference Committee Report on **HB 275** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 287**: The Senate has adopted the Conference Committee Report on **HB 287** and is notifying this Honorable Body that it has repassed the bill as amended in conference.

Representative Stumbo moved the adoption of the Conference Committee Report on **HB 608**. The Committee cannot agree and requests that a Free Conference Committee be appointed. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 309, SB 323, SCR 113, HB 142, HB 736, HB 892,** and **HJR 142** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:55 p.m.)

Orders of the Day

SB 195, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that House Floor Amendment No. 2 to **SB 195** be withdrawn. Agreed.

Representative Johns moved that **SB 195** be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See April 11, 2000 roll call on **SB 195** - Appendix.)

SB 195 was passed and the title agreed to.

Representative Johns moved that the vote by which **SB 195** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 919, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 919** is as follows:

On page 7, line 4, by deleting "*189.285,*", and
On page 7, line 20, after "189.200," by inserting "*189.285,*", and
On page 12, lines 20 through 22, by bracketing and striking through same.

Representative Wilkey moved that the House concur in Senate Floor Amendment No. 1 to **HB 919**. Agreed.

Representative Wilkey moved that **HB 919**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 87, Nays 8**. (See April 11, 2000 roll call on **HB 919** - Appendix.)

HB 919, as amended by the Senate, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 919**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 100 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Cherry moved the adoption of the following Free Conference Committee Report on **HB 100**. Agreed.

The Free Conference Committee on **HB 100** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA Copy of **HB 100** as amended by the Senate Committee Substitute and Senate Floor Amendment No. 1 with the following changes:

On page 3, line 13, after the phrase "License plates issued under this section shall" insert "be a five (5) year license plate."; and

On page 3, line 14, delete line 14 in its entirety; and

On page 3, line 15, delete "Transportation Cabinet under KRS 186.240."; and

On page 9, lines 10 through 16, delete lines 10 through 16 in their entirety; and

Signed: March 28, 2000 - Representatives Riggs, Cherry, Collins, and Ausmus; Senators Herron, Moor, Tori, and Guthrie. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Cherry moved that **HB 100**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See April 11, 2000 roll call on **HB 100** - Appendix.)

HB 100, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 100**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 629 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Barrows moved the adoption of the following Free Conference Committee Report on **HB 629**. Agreed.

The Free Conference Committee on **HB 629** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA Copy of **HB 629** with the following changes:

On page 1, line 3, through page 5, line 22, by deleting all of the language in Section 1 in its entirety, and by inserting the following language in lieu thereof:

"(1) The General Assembly hereby finds and declares that:

(a) Public accountability for funds or other assets recovered in a legal action by or on behalf of the general public, the Commonwealth, or its duly elected statewide constitutional officers is appropriate and required, whether the character of the assets or funds recovered is public or private;

(b) Accountability for assets or funds recovered by duly elected statewide constitutional officers is essential to the public trust, and is even more critical when that officer was a party to the action that resulted in the recovery by virtue of the public office he or she holds;

(c) Public accountability demands the applicability of the Kentucky Open Records Law, KRS 61.870 to 61.884, and the Kentucky Open Meetings Law, KRS 61.805 to 61.850, so that the actions of individuals or agencies who are charged with the administration of funds or other assets are conducted in full view, and are open to public scrutiny;

(d) The General Assembly recognizes that the Attorney General of the Commonwealth of Kentucky has filed or been a party to actions by virtue of the public office he holds, and has recovered certain assets or funds of approximately forty-five million dollars ($45,000,000), plus interest, for or on behalf of the citizens of the Commonwealth in the cases of Commonwealth of Kentucky, ex rel., Attorney General, Albert B. Chandler, III v. Anthem Insurance Companies, Inc., Southeastern Group, Inc., Southeastern United Medigroup, Inc., Franklin Circuit Court, Division I, Civil Action No. 97-CI-01566, and Southeastern United Medigroup, Inc., Southeastern Group, Inc., and Anthem Insurance Companies, Inc., v. Commonwealth of Kentucky, Department of Insurance, Franklin Circuit Court, Division II, Civil Action No. 97-CI-00405;

(e) The terms of the settlement of those actions referenced in subsection (1)(d) of this section serve a public purpose and require that the proceeds of settlement be used "to address the unmet health care needs of Kentucky citizens";

(f) In accordance with the terms of the settlement referenced in subsection (1)(d) of this section, a foundation has been or is to be formed and appointments to that foundation made after receiving recommendations from an advisory board whose appointments will be made from nominees of the Attorney General;

- (g) While it may be important that, in certain circumstances, funds or assets received retain their character, identity, and purpose, it is also important that the process by which funds are administered and the individuals named to serve on the advisory board and the foundation in the settlement referenced in subsection (1)(d) of this section be open to public scrutiny and be required to make reports and be accountable to the public; and
- (h) The power to appropriate funds for public purposes is solely within the purview of the legislative branch of government, and the General Assembly, as a steward of the budgetary process, shall take steps to assure that future settlements are handled in a manner that assures maximum accountability to the citizens of the Commonwealth and their duly elected legislative representatives.

(2) Therefore, any other provision of the common law or statutory law to the contrary notwithstanding:

- (a) The provisions of subsection (3) of this section shall apply to the settlement referenced in subsection (1)(d) of this section, and to the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission, or entity, created by court order or otherwise, to administer the settlement proceeds to provide for the "unmet health care needs of Kentucky citizens"; and
- (b) Except for the settlement referenced in subsection (1)(d) of this section, the provisions of subsection (4) of this section shall apply whenever the Attorney General or other duly elected statewide constitutional officer is a party or has entered his appearance in a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or a person, organization, or entity created by the Attorney General or the Commonwealth, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes;
- (c) Except as otherwise provided in paragraphs (a) and (b) of this subsection, the provisions of subsection (5) of this section shall apply when any funds or assets of any kind or nature whatsoever, including, but not limited to, public funds as defined in KRS 446.010 and private funds or assets are recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex. rel. or other type actions filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority.

(3) The advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission, or entity, created by court order or otherwise, in accordance with the settlement outlined in subsection (1)(d) of this section, shall be deemed a public trust, and shall:

- (a) Be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884, and the Kentucky Open Meetings Act, KRS 61.805 to 61.850;
- (b) Be audited on an annual basis by the Auditor of Public Accounts;
- (c) Provide any records, documents, written reports, and audits to the Governor, Auditor of Public Accounts, and the Legislative Research Commission, as may be requested;
- (d) Provide representatives of the organization or entity to testify before any committee of the General Assembly, when requested, concerning the work and financial condition of the organization or entity;
- (e) Encourage the Franklin Circuit Court to authorize the Governor to appoint two (2) at-large members to the board of directors of the foundation created by the settlement agreement; and
- (f) Provide written notice of any disbursement of funds or assets to the co-chairs of the Interim Joint Committee on Appropriations and Revenue, the secretary of the Finance and Administration Cabinet, and the state controller at least fourteen (14) days prior to making disbursement. Within forty-five (45) days after receipt of the notice of disbursement of funds or assets in accordance with this subsection, the Interim Joint Committee on Appropriations and Revenue may hold a hearing on the disbursement. If requested by the Interim Joint Committee on Appropriations and Revenue, members of the advisory board, corporation, organization, foundation, charitable trust, constructive trust, board, commission, or entity making disbursement and the person, organization, or other entity receiving the disbursement shall appear and give testimony concerning the proposed disbursement. Following the hearing, the Interim Joint Committee on Appropriations and Revenue shall make findings concerning whether or not the disbursement:
  1. Is consistent with the nature, character, and purpose for which the funds were recovered; and
  2. Is in the best interest of the Commonwealth.

  A copy of the findings shall be publicly released and mailed or otherwise delivered to the entity or organization seeking disbursement, the secretary of the Finance and Administration Cabinet, and the state controller.

(4) Except for the settlement referenced in subsection (1)(d) of this section, whenever the Attorney General or other duly elected statewide constitutional officer is a party to or has entered his appearance in, a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or by a person, organization, or entity created by the Attorney General, or the Commonwealth, through court action or

otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes, those funds shall be deposited in the State Treasury and the funds or assets administered and disbursed by the Charitable Asset Administration Board created under this section. As used in this section "CAAB" means the Charitable Asset Administration Board.

(a) The CAAB shall consist of the following members, who shall be confirmed by the Senate under KRS 11.160, and who shall serve at the pleasure of the duly elected statewide constitutional officer making the appointment during that constitutional officer's term of office:

1. Three (3) members to be appointed by the Governor;
2. Three (3) members to be appointed by the Attorney General; and
3. Three (3) members to be appointed by the Auditor of Public Accounts.

(b) Each duly elected statewide constitutional officer under paragraph (a) of this subsection shall appoint at least one (1) member who has a background in the administration of charitable, eleemosynary, benevolent, educational, or similar type trust assets, but shall not be currently involved in any activity that would violate the provisions of KRS 11A.040, as they relate to the performance of the appointee's duties on the CAAB.

(c) All appointees to the CAAB shall comply with the provisions of the Executive Branch Code of Ethics found in KRS Chapter 11A.

(d) A vacancy in the membership of the CAAB shall be filled in the same manner and under the same conditions as the initial appointment to the board.

(e) The CAAB shall:

1. Be a nonprofit, de jure, quasi-governmental corporation subject to the Kentucky Open Records Law, KRS 61.870 to 61.884, and Kentucky Open Meetings Law, KRS 61.800 to 61.850;
2. Have any and all general corporate, trust, or other powers reasonable or necessary to fulfill the requirements and purposes of the CAAB;
3. Be audited on an annual basis by the Auditor of Public Accounts;
4. Provide any documents, written reports, and audits to the Legislative Research Commission as may be requested; and
5. Provide representatives of the organization or entity to testify before any committee of the Kentucky General Assembly when requested concerning the work and financial condition of the CAAB.

(f) The CAAB shall have full authority over the administration, control, and disbursement of any funds recovered under this subsection. The CAAB shall receive, analyze, administer, disburse, and preserve the identity, character, and nature and the charitable, eleemosynary, benevolent, educational, or similar public purpose of the funds or assets received consistent with this subsection and the authority for administering the funds recovered as set forth in the:

1. Articles of incorporation and bylaws of the corporation;
2. Partnership agreement or other business association agreement;
3. Contractual agreement;
4. Governing documents of the public or private foundation;
5. Charitable trust documents;
6. Terms of the constructive trust;
7. Orders of a state or federal court;
8. State or federal law or regulation; or
9. Any other governing documents necessary to properly administer the funds recovered.

(g) The CAAB may hold public hearings, if necessary, concerning the proper administration or disbursement of trust assets received and to be administered under this subsection.

(h) 1. After the effective date of this Act, all charitable, eleemosynary, benevolent, educational, or similar type trust funds or assets, to which this subsection applies, recovered by way of judgment, settlement, or otherwise, shall be transferred to the CAAB for administration of those funds or assets consistent with their charitable, eleemosynary, benevolent, educational, or similar public purpose and the provisions of this subsection.

2. For those legal actions settled prior to the effective date of this Act, except for the settlement outlined in subsection (1)(d) of this section to which subsection (3) of this section shall apply, where charitable, eleemosynary, benevolent, educational, or similar type trust funds or assets, are recovered by way of judgment or settlement, and to which this subsection would otherwise be applicable, the federal and state

courts where those actions are pending are encouraged to transfer any trust funds or assets remaining after administration to the CAAB.

(5) (a) Any other provision of the common law or statutory law to the contrary notwithstanding, and except as otherwise provided in this section, any funds or assets of any kind or nature whatsoever, including, but not limited to, public funds as defined in KRS 446.010 and private funds or assets when recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex. rel. or other type actions filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority shall be deemed public funds, and shall be deposited into an account maintained by the Finance and Administration Cabinet.

(b) No funds to which this subsection applies when deposited in an account maintained by the Finance and Administration Cabinet shall be disbursed without a specific legislative appropriation of the deposited funds by the General Assembly while in regular or special legislative session.

(6) The common law, including the common law authority of any duly elected statewide constitutional officer, is specifically abrogated to the extent it is inconsistent with the provisions of this section.

(7) The provisions of this section shall not apply to actions by or on behalf of the Commonwealth or its duly elected statewide constitutional officers, if the recovery sought and received is for specific individuals identified as parties to the action either by individual Social Security number, other individual identifying number, or by the individual's proper name.

(8) Notwithstanding any statute or common law to the contrary, and except as provided in this subsection, an elected statewide constitutional officer or any other state official or agency shall not file or participate as a plaintiff, petitioner, party, intervening party, attorney, or amicus curiae in any litigation challenging the constitutionality of this section. State funds and employee time shall not be expended by any person or agency in support of such a challenge. If the constitutionality of this section is challenged, the Finance and Administration Cabinet shall be the sole named respondent in that litigation, and shall consult with the Legislative Research Commission regarding defense of that litigation."; and

On page 6, line 5, by inserting the following language before "He", "Except as otherwise provided in subsection (8) of Section 1 of this Act and Section 8 of this Act,"; and

On page 6, lines 13 through 17, by deleting all the language beginning with "If any" and ending with "this Act.", and by inserting the following language after "employment." on page 6, line 18:

"If any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any action, including an ex rel. action where the Attorney General has entered an appearance or is a party according to statutory or common law authority, those funds shall be handled under Section 1 of this Act."; and

On page 7, line 19, before "this Act" by inserting "subsection (3) of Section 1 of"; and

On page 7, lines 25 through 27, by deleting all the language beginning with "; and those" and ending with "this Act"; and

On page 8, after line 9, by inserting the following new sections:

"Section 8. Notwithstanding any statute or common law to the contrary, and except as provided in this section, an elected statewide constitutional officer or any other state official or agency shall not file or participate as a plaintiff, petitioner, party, intervening party, attorney, or amicus curiae in any litigation challenging the constitutionality of any portion of this Act. State funds and employee time shall not be expended by any person or agency in support of such a challenge. If the constitutionality of any portion of this Act is challenged, the Finance and Administration Cabinet shall be the sole named respondent in that litigation, and shall consult with the Legislative Research Commission regarding defense of that litigation.

Section 9. The common law is specifically abrogated to the extent inconsistent with the provisions of Sections 1 to 8 of this Act.".

TITLE AMENDMENT: By amending the title to read as follows: "AN ACT relating to Commonwealth legal actions, and declaring an emergency.".

Signed: March 29, 2000 - Representatives Barrows and Hoover; Senators Stivers, Stine, Shrout, and Westwood. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Barrows moved that **HB 629**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 83, Nays 14.** (See April 11, 2000 roll call on **HB 629** - Appendix.)

HB 629, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 629**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 287 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative A. Arnold moved the adoption of the following Conference Committee Report on **HB 287**. Agreed.

The Conference Committee on **HB 287** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt Senate Committee Amendment No. 1 and Senate Committee Amendment No. 2 .

Signed: March 29, 2000 - Representatives A. Arnold, Palmer, and Napier; Senators Rose, Stine, McGaha, and Shaughnessy. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative A. Arnold moved that **HB 287**, as amended by the Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 88, Nays 5**. (See April 11, 2000 roll call on **HB 287** - Appendix.)

HB 287, as amended by the Conference Committee Report, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 287**, as amended by the Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 677 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Haydon moved the adoption of the following Free Conference Committee Report on **HB 677**. Agreed.

The Free Conference Committee on **HB 677** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA Copy of **HB 677** as amended by the Senate Committee Substitute with the following changes:

On page 2, line 6, by deleting "(4)(v)" and inserting in lieu thereof "(4)(w)"; and

On page 6, line 8, by deleting ", including builders,"; and

On page 6, line 19, after the word "regular" by removing the brackets and strikethroughs on the word "salaried"; and

On page 6, line 26, before the period by inserting "and giving out general public information specifically authorized by the broker"; and

On page 8, line 3 by deleting "thirty-six (36)" and removing the brackets and strikethroughs from "twenty-four (24)"; and

On page 8, line 13, by deleting "three (3)" and removing the brackets and strikethroughs from "two (2)"; and

On page 8, line 14, by deleting "two (2) years" and removing the brackets and strikethroughs from "one (1) year"; and

On page 10, line 20 after "(1)", through line 26, by deleting all underlined language and removing all bracketing and strikethroughs; and

On page 10, line 27, by deleting "(2)" and removing the brackets and strikethroughs on "(3)"; and

On page 11, line 1 through 2, by deleting all underlined language and removing all bracketing and strikethroughs; and

On page 11, line 3, by deleting "(3)" and inserting in lieu thereof "(4)"; and

On page 12, line 5 after "(2)", through line 10, by deleting all underlined language; and

On page 12, line 11, by deleting "(4)"; and

On page 12, line 12, by deleting "(5)" and removing the brackets and strikethroughs from "(3)"; and

On page 12, line 13 through 16, by removing all bracketing and strikethroughs; and

On page 12, line 13, after "Any", by inserting "licensees" and by placing brackets and strikethroughs on "sales associate or broker"; and

On page 12, line 14, after "on the" by inserting "licensees" and by placing brackets and strikethroughs on "associate's or broker's"; and

On page 12, line 17, by deleting "(6)" and inserting in lieu thereof, "(5)"; and

On page 12, line 19, by deleting "(7)" and inserting in lieu thereof, "(6)"; and

On page 19, line 9 through 10, by removing all bracketing and strikethroughs; and

On page 19, line 9, at the beginning of the line by inserting "(t)" and by bracketing and strikingthrough "(p)"; and

On page 19, line 10, after "in" by inserting "subsection (4) of Section 4 of this Act" and by bracketing and striking-through "KRS 324.020(3)"; and

On page 19, line 11, by deleting "(t)" and inserting in lieu thereof "(u)"; and

On page 19, line 14, by deleting "(u)" and inserting in lieu thereof "(v)"; and

On page 19, line 16, by deleting "(v)" and inserting in lieu thereof "(w)"; and

On page 19, line 19, by deleting "(4)("u)" and inserting in lieu thereof "(4)(v)"; and

On page 22, line 3, after the period by inserting "No person appointed after the effective date of this Act shall serve more than two (2) consecutive terms."; and

On page 25, line 19, by deleting "(4)(u)" and inserting in lieu thereof "(4)(v)"; and

On page 27, line 18, by removing "written".

Singed: March 29, 2000 - Representatives Haydon, C. Belcher, Collins, and Ford; Senators Robinson, Kerr, Herron, and Tori. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Haydon moved that **HB 677**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 94, Nays 2**. (See April 11, 2000 roll call on **HB 677** - Appendix.)

HB 677, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 677**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 992 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved the adoption of the following Free Conference Committee Report on **HB 992**. Agreed.

The Free Conference Committee on **HB 992** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA Copy of **HB 992** as amended by the Senate Committee Substitute with the following changes:

On page 28, line 14, by bracketing and striking through "sixteen (16)" and by inserting in lieu thereof "nineteen (19); and

On page 35, line 17, through page 38, line 9, by deleting Section 17 and Section 18 in their entirety; and

On page 35, after line 16 by inserting the following:

"Section 17. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) Except with respect to claims for benefits by reason of coal workers' pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an administrative law judge [arbitrator for benefit review]. The administrative law judge[arbitrator] shall facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

(3) [(a) The arbitrator shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation.

(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.

(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.

(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.

(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.

(7)] Within one hundred twenty (120) days of the effective date of this Act[December 12, 1996], the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims[, which shall include benefit review]. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.

Section 18. KRS 342.275 is amended to read as follows:

(1) [Within thirty (30) days after the filing of the benefit review determination with the commissioner, any party may appeal that determination by filing a request for hearing before an administrative law judge. Proceedings before the administrative law judge shall be de novo but subject to penalties for unreasonable proceedings under KRS 342.310.

(2)] The commissioner shall promptly issue notice of the assignment of the claim to an administrative law judge, time for presentation of proof and of the time and place of a benefit review conference[hearing]. The administrative law judge may confer informally with the parties for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposition of the case.

(2)[(3)]The administrative law judge may grant continuances or grant or deny any benefits afforded under this chapter, including interlocutory relief, according to criteria established in administrative regulations promulgated by the commissioner. The administrative law judge shall render the award, order, or decision within sixty (60) days following the final hearing unless extension is mutually agreed to by all parties. The award, order, or decision, together with a statement of the findings of fact, rulings of law, and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order, or decision shall immediately be sent to the parties in dispute."; and

On page 59, line 9, after the word "payments" by inserting "; or" and by bracketing and striking through the period "(.)" ; and

On page 59, line 19, after the period "(.)" by inserting "This provision shall not be construed so as to extend the duration of payments."; and

On page 60, line 4, by deleting "and" and inserting in its place "or"; and

On page 75, line 27, by deleting "(5)" and by inserting in lieu thereof "(3)", and

On page 76, between line 1 and line 2, by inserting the following:

"Section 38. KRS 342.165 is amended to read as follows:

(1) If an accident is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful administrative regulation made thereunder, communicated to the employer and relative to installation or maintenance of safety appliances or methods, the compensation for which the employer would otherwise have been liable under this chapter shall be increased thirty percent (30%)[fifteen percent (15%)] in the amount of each payment. If an accident is caused in any degree by the intentional failure of the employee to use any safety appliance furnished by the employer or to obey any lawful and reasonable order or administrative regulation of the commissioner or the employer for the safety of employees or the public, the compensation for which the employer would otherwise have been liable under this chapter, shall be decreased fifteen percent (15%) in the amount of each payment.

(2) No compensation shall be payable for work-related injuries if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable falsely represents, in writing, his physical condition or medical history, if all of the following factors are present:

(a) The employee has knowingly and willfully made a false representation as to his physical condition or medical history;

(b) The employer has relied upon the false representation, and this reliance was a substantial factor in the hiring; and

(c) There is a causal connection between the false representation and the injury for which compensation has been claimed.

Section 39. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such children, share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b), and (d) of subsection (1) of this section shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his disability from an occupational disease began.

(6) In addition to other benefits as provided by this chapter, if death occurs within four (4) years of the date of injury as a direct result of a work-related injury, a lump-sum payment of fifty thousand dollars ($50,000)[twenty-five thousand dollars ($25,000)] shall be made to the deceased's estate, from which the cost of burial and cost of transportation of the body to the employee's place of residence shall be paid. Annually, the commissioner shall compute, in accordance with KRS 342.740, the increase or decrease in the state average weekly wage, and consistent therewith, shall adjust the amount of the lump sum payment due under this subsection for injuries occurring in the succeeding year.

(7) All benefits awarded pursuant to this section, other than those provided in subsection (6) of this section, shall be subject to the limitations contained in KRS 342.730(4)."; and

On page 76, line 2, by renumbering "Section 38" as "Section 40".

Signed: March 29, 2000 - Representatives Heleringer, Jenkins, and Horlander; Senators Buford, Stine, Harris, McGaha, and Johnson. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Stumbo moved that **HB 992**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 97, Nays 2**. (See April 11, 2000 roll call on **HB 992** - Appendix.)

HB 992, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 992**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **SB 15** be returned to the Senate. Agreed.

Senate Message (Continued)

Announcing passage of **HB 77, HB 182, HB 240, HB 510,** and **HB 641**. (Time: 4:30 p.m.)

Orders of the Day (Continued)

HB 275 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative J. Adams moved the adoption of the following Free Conference Committee Report on **HB 275**. Agreed.

The Free Conference Committee on **HB 275** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **HB 275** with Senate Floor Amendment No. 2 - Title with the following changes:

On Page 1, line 12, by deleting "and"; and

On Page 1, line 13, after "governments", by inserting ", and sheriffs upon approval of the fiscal court"; and

On Page 2, after line 5, by inserting the following new language.

"Section 2. KRS 65.220 is amended to read as follows:

It is the purpose of KRS 65.210 to 65.300 to permit local governmental units and the sheriff upon approval of the fiscal court to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

Section 3. KRS 65.230 is amended to read as follows:

As used in KRS 65.210 to 65.300, unless the context otherwise requires, "public agency" means any political subdivision of this state, any agency of the state government or of the United States, a sheriff, and any political subdivision of another state. It also means a state-supported or private institution of higher education and a county or independent public school district for the purposes of entering into a joint agreement to establish and operate a program or facility, including a center for child learning and study, designed to help one (1) or more schools meet any of the goals set forth in KRS 158.6451, or for the investment of funds. If a private institution of higher education proposes to participate in an agreement pursuant to the Interlocal Cooperation Act, the Attorney General shall determine if the proposal is compatible with the United States Constitution, as part of the review of the agreement provided in KRS 65.260(2).

Section 4. KRS 65.245 is amended to read as follows:

(1) It is the purpose of this section to clarify the ability of cities, counties, urban-counties, [and] charter-counties, and sheriffs upon approval of the fiscal court to share their revenues by entering into interlocal agreements.

(2) Any city, county, urban-county, or charter-county may by ordinance enter into cooperative interlocal agreements for the sharing of revenues. A sheriff, upon approval of the fiscal court, may enter into a memorandum of agreement with local governments for the purposes of sharing of revenues. The distribution of the revenues shall be as agreed upon by the local governments or the sheriff and contained in the interlocal agreement.".

Signed: March 28, 2000 - Representatives J. Adams, Vincent, Hoffman, and Webb; Senators Robinson, Roeding, Johnson, and Harris. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative J. Adams moved that **HB 275**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See April 11, 2000 roll call on **HB 275** - Appendix.)

HB 275, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 275**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 49 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative R. Adams moved the adoption of the following Free Conference Committee Report on **SB 49**. Agreed.

The Free Conference Committee on **SB 49** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **SB 49** as amended by the House Committee Substitute with the following changes:

On page 1, title line, by changing the title to read "AN ACT relating to tobacco and declaring an emergency."; and

On page 1, after the enacting clause by deleting all the text on pages 1 to 16 thereafter and by substituting the following;

"Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1997, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

   (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

   (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

   (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

   (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;[and]

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998[a national settlement agreement between the tobacco industry and the states' Attorneys General or from any federal legislation related to the agreement];

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted from the 1998 to the 1999 calendar year as provided under Pub. L. No. 106-78, Title 8, sec. 803;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;[and]

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted from the 1998 to the 1999 calendar year as provided under Pub. L. No. 106-78, Title 8, sec. 803;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the Tobacco Price Support Program administered by the United States Department of Agriculture under 7 U.S.C. sec. 1314 is the best and most efficient means of preserving the economic health of thousands of tobacco farms throughout the United States and throughout Kentucky. Based upon this finding, the General Assembly declares that the Tobacco Task Force shall study methods to support the Tobacco Price Support Program and its continuing role in the economic viability of Kentucky's small tobacco farmer.

Section 3. (1)The Tobacco Task Force is directed to study the development of contracting for tobacco growing and purchasing, study the effect of tobacco contracting on tobacco income and examine what the role of the state should be with regard to tobacco contracting. The task force shall research the issues and recommend strategies for the General Assembly. The research shall include but not be limited to: monitoring the opening day of the 2000 burley tobacco market; consideration of the treatment of producers, particularly small producers, by the tobacco companies seeking to contract for tobacco in the 2000 tobacco market; holding task force meetings addressing potential discrimination against small tobacco producers because of contracting; hearing testimony from tobacco growers from the various regions of the state regarding contracting; hearing testimony from tobacco companies regarding contracting; structuring a proposed framework for state regulation of tobacco contracting in Kentucky; examining programs in other states regarding contracting for tobacco; and working with other tobacco-producing states to formulate a uniform approach to state regulation of burley tobacco contracting.

(2) The task force shall hold no less than four (4) meetings to carry out the purposes of subsection (1) of this section. The task force shall, at a minimum, seek testimony from the Kentucky Farm Bureau, the Community Farm Alliance, the Burley Tobacco Growers Cooperative Association, the Council for Burley Tobacco, the University of Kentucky College of Agriculture, the Burley Farmers Advisory Council, small and large tobacco growers from various regions of the state, the tobacco companies who purchase burley tobacco in Kentucky, the Governor's Office of Agriculture Policy, the Department of Agriculture, and other states that have or are proposing similar contracting legislation.

(3) The task force shall report to the Legislative Research Commission and the Interim Joint Committee on Agriculture and Natural Resources no later than December 15, 2000. In the event that the Federal Tobacco Price Support Program ends before the report is due, the task force shall immediately advise the Legislative Research Commission and the Governor's Office on the steps to take to best protect the interests of the state and the state's tobacco producers.

(4) Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 4. The amendments contained in Section 1 of this Act shall retroactively apply to tax years beginning after December 31, 1998.

Section 5. Whereas the filing deadline for income taxes is April 15, an emergency is declared to exist, and Section 1 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

Signed: April 11, 2000 - Representative R. Adams, Hoffman, Thomas, Treesh, Turner and Worthington; Senators Sanders, Boswell, Harris, McGaha, and Pendleton. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative R. Adams moved that **SB 49**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See April 11, 2000 roll call on **SB 49** - Appendix.)

SB 49, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative R. Adams moved that the vote by which **SB 49**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 842, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 842** is as follows:

On page 5, line 11, between "*architecture*" and the semicolon, by inserting "***. This specifically includes, but is not limited to, directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies***".

Representative Buckingham moved that the House concur in Senate Committee Amendment No. 1 to **HB 842**. Agreed.

Representative Buckingham moved that **HB 842**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See April 11, 1998 roll call on **HB 842** - Appendix.)

HB 842, as amended by the Senate, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **HB 842**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 170, with Floor Amendments attached thereto, taken from the Orders of the Day placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that rules be suspended to reconsider the vote by which the House refused to recede from House Floor Amendment No. 4 and House Floor Amendment No. 5 to **SB 170**. Agreed.

Representative Damron moved that the House recede from House Floor Amendment No. 4 to **SB 170**. Agreed.

Representative Damron moved that the House recede from House Floor Amendment No. 5 to **SB 170**. Agreed.

Representative Damron moved that **SB 170**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See April 11, 2000 roll call on **SB 170** - Appendix.)

SB 170, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **SB 170**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended and **SB 332** be placed in the Orders of the Day. Agreed.

Representative Stumbo moved that **SB 289, SB 275, SB 42, SCR 4, SB 4, SB 314, SB 349, HB 341, SB 290, HB 665, HB 47, HB 220, HB 274, HB 410, HJR 14, HB 664, SB 98,** and **HB 350** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees (Continued)

A Free Conference Committee Report was filed on **HB 608**.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 77, HB 100, HB 182, HB 240, HB 268, HB 275, HB 287, HB 510, HB 629, HB 641, HB 677, HB 992, HB 842,** and **HB 919** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -7:30 p.m.)

Orders of the Day (Continued)

SB 58, with Floor Amendment attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved to recede from House Floor Amendment No. 1 to **SB 58**. Agreed.

Representative Graham moved that **SB 58**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See April 11, 2000 roll call on **SB 58** - Appendix.)

SB 58, as amended, was passed and the title agreed to.

Representative Graham moved that the vote by which **SB 58**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 77 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **SB 77**. Agreed.

The Free Conference Committee on **SB 77** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **SB 77** as amended by the House Committee Substitute No.

2 and House Committee Amendment No. 1 - Title with the following changes:

On page 2, line 12, by deleting "KRS Chapter 156.097" and inserting in lieu thereof "Section 10 of this Act";

On page 4, line 5, by deleting "mathematics";

On page 5, beginning on line 23 by deleting all language through line 3 on page 7;

On page 7, line 4, by renumbering "SECTION 5." as "SECTION 4.";

On page 12, line 5, by renumbering "SECTION 6." as "SECTION 5.";

On page 13, line 3, after "information;" by inserting "and";

On page 13, line 4, after "(f)" by deleting all language through "(g)" on line 7;

On page 13, line 11, after "(4)" by deleting all language through "(5)" on line 16;

On page 13, line 22, by renumbering "SECTION 7." as "SECTION 6.";

On page 14, line 7, after "year ." by deleting all language through "determined." on line 14;

On page 14, line 17, after "salary." by deleting all language through the end of line 18;

On page 14, line 19, by renumbering "SECTION 8." as "SECTION 7.";

On page 15, line 22, by renumbering "SECTION 9." as "SECTION 8.";

On page 16, line 27, by renumbering "SECTION 10." as "SECTION 9.";

On page 17, line 15, by renumbering "Section 11." as "Section 10.";

On page 20, line 11, by changing "Section 15" to "Section 14";

On page 20, line 11, by changing "shall" to "may";

On page 22, line 6, by renumbering "Section 12." as "Section 11.";

On page 23, line 9, by deleting "paragraphs (d) and (e)" and inserting in lieu thereof "paragraph (d)";

On page 27, line 5, by renumbering "Section 13." as "Section 12.";

On page 28, line 15, by changing "Section 8" to "Section 7";

On page 29, line 14, after "[(7)]" by deleting all new language through "program" on line 19 and inserting in lieu thereof "A classroom teacher or administrator may be provided additional compensation for serving as a classroom mentor, teaching partner, or professional development leader in core discipline areas including reading, and other subject areas as appropriate to other education professionals in a state approved program or state approved activities. The Kentucky Department of Education shall administer the funds appropriated for these purposes.";

On page 29, line 20, after "define" by deleting all new language through line 8 on page 30 and inserting in lieu thereof "the guidelines for programs and activities that qualify for funds including the application and approval process, the individual participant requirements, the amount of compensation, the timelines, and reporting requirements. The board shall solicit recommendations from the Education Professional Standards Board and staff of the Kentucky Department of Education in developing its administrative regulations.";

On page 30, lines 21 to 26 by deleting all language;

On page 30, line 27, by renumbering "Section 14." as "Section 13.";

On page 31, line 19, by deleting "Section 11 of this Act" and removing the brackets and strikethroughs from "[KRS 156.095]";

On page 34, line 22, by renumbering "Section 15." as "Section 14.";

On page 42, line 21, by changing "Section 11" to "Section 10 of this Act";

On page 43, line 18, by renumbering "Section 16." as "Section 15.";

On page 44, line 14, after "programs" by deleting all language through line 16 before the ";";

On page 45, line 11, after "[(f)]" by deleting "Determine" and by inserting in lieu thereof "Recommend to the Kentucky Board of Education";

On page 45, line 14, after "system" by inserting "and report the recommendations to the Interim Joint Committee on Education";

On page 45, line 24, after "select," by deleting "employ,";

On page 45, line 25 after "board;" by deleting all language through the end of line 26;

On page 46, line 16, after "(q)" by deleting "Solicit" and inserting in lieu thereof "Promote";

On page 46, line 16, after "nontraditional" by inserting "or alternative administrator or";

On page 46, line 18, after "contractors," by inserting "the Department of Education,";

On page 46, line 20 by deleting "and";

On page 46, line 21, after "(r)" by inserting "Grant approval if appropriate of a university's request for an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Teacher Internship Program, notwithstanding provisions of KRS 161.030. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship requirements, and all assessments required by the board;

(s) Grant approval if appropriate of a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as an assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board; and

(t)".

Signed: April 11, 2000 - Representatives L. Belcher, Thompson, and Colter; Senators McGaha, Westwood, Casebier. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Moberly moved that **SB 77**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See April 11, 2000 roll call on **SB 77** - Appendix.)

SB 77, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 77**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that she be recorded as voting "yea" on **SB 195**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 49**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 677**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **SB 195** and **HB 919**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **SB 58** and **SB 77**. Agreed.

Representative Stumbo moved that no further business to be conducted on this day other than enrolling and engrossing of bills, Senate messages, and Conference Committee Reports. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., April 14, 2000. Agreed.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess until 11:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SCR 39** and **SB 195** have been examined and found correctly enrolled. Said Bill and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -8:30 p.m.)

HB 142, HB 736, HB 892, and **HJR 142** delivered to the Senate and signed by the President. Delivered to the Governor on April 11, 2000, at 8:35 p.m.

HB 77, HB 100, HB 182, HB 240, HB 268, HB 275, HB 287, HB 510, HB 629, HB 641, HB 677, HB 992, HB 842, and **HB 919** delivered to the Senate and signed by the President. Delivered to the Governor on April 11, 2000, at 8:40 p.m.

Senate Message

Announcing passage of **HB 209**. (Time 10:45 p.m.)

Message in regard to **HB 541**: The Senate has passed **HB 541** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 572**: The Senate has passed **HB 572** with Senate Committee Amendment No. 2 and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 996**: The Senate has passed **HB 996** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 8 to the House Committee Substitute to **SB 315**, by Representative Moberly:

On page 26, line 8, bracket and strike through "and";

On page 26, line 9, after "Export" insert "*; and*

(11) Kentucky Agency for Substance Abuse Policy";

On page 48, between lines 5 and 6, insert the following:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 26 to 28 of this Act, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.

(2) The Kentucky Agency for Substance Abuse Policy is created and attached for administrative purposes to the Office of the Governor. KY-ASAP shall be headed by an executive director with experience in overseeing programs involving tobacco and substance abuse and shall have other staff as necessary to conduct its affairs.

(3) KY-ASAP shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. KY-ASAP may expend endowment principal, if necessary in its discretion, to carry out the purposes of Sections 26 to 28 of this Act. These expenditures from the endowment principal are hereby appropriated for this purpose.

(4) (a) The eighteen (18) member KY-ASAP Board is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:

1. One (1) member representing the Kentucky Family Resource Youth Services Coalition, or a designee;

2. One (1) member representing the Kentucky Health Department Association, or a designee;

3. The secretary of the Cabinet for Health Services, or designee;

4. The secretary of the Justice Cabinet, or a designee;

5. The secretary of the Cabinet for Families and Children, or a designee;

6. One (1) member representing the Division of Substance Abuse within the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, or a designee;

7. The commissioner of the Department for Public Health, Cabinet for Health Services, or a designee;

8. The commissioner of the Department of Alcoholic Beverage Control, or a designee;

9. The commissioner of the Department of Education;

10. The director of the Administrative Office of the Courts, or a designee;

11. One (1) member representing the Kentucky Association of Regional Programs, or a designee;

12. One (1) member representing the Kentucky Heart Association, or a designee;

13. One (1) member representing the Kentucky Lung Association, or a designee;

14. One (1) member representing the Kentucky Cancer Society, or a designee;

15. Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and

16. Two (2) members representing private community-based organizations, whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention and treatment.

(b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.

(c) The board shall meet at least quarterly. A quorum of ten (10) members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.

(d) The board shall:

1. Oversee deposits and expenditures from the endowment;

2. Request, in its discretion, an audit relating to the expenditure of endowment funds;

3. Receive quarterly reports from the executive director regarding KY-ASAP's activities;

4. Progress toward development and implementation of the strategic plan;

5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and treatment;

6. Recommend matters for review and analysis by KY-ASAP; and

7. Perform other duties as necessary for the oversight of KY-ASAP.

(5) KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.

(6) KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

SECTION 27. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

KY-ASAP shall:

(1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;

(2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;

(3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;

(4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;

(5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. KY-ASAP shall identify

gaps in information referral sources;

(7) Search for grant opportunities for existing programs within the Commonwealth;

(8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;

(9) Observe programs from other states;

(10) Coordinate services among local and state agencies, including, but not limited to, the Justice Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Department of Agriculture, the Public Protection and Regulation Cabinet, the Administrative Office of the Courts, and the Education, Arts, and Humanities Cabinet;

(11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;

(12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;

(13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;

(14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

(16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

(17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;

(18) Certify to the Governor and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of KY-ASAP;

(19) Promulgate any administrative regulations necessary to implement Sections 26 to 28 of this Act; and

(20) Report to the Legislative Research Commission and Governor by October 1, 2000, regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semi annually to the Legislative Research Commission and Governor on the proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of services and grants, and on other matters as requested by the Legislative Research Commission and Governor.

SECTION 28. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse prevention, cessation, and treatment, although a single board may be established for multiple counties to ensure a comprehensive range of services. The board shall assist with the coordination of programs provided by public and private entities. If the existing programs of private service providers are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health Services shall support the communities' efforts.

(2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the advisory and coordination board to enable it to carry out its functions.

(3) KY-ASAP shall provide incentives to encourage multicounty advisory and coordination board requests and shall establish a single board to represent all counties making the request. Priority in establishing a board shall be given to

existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.

(4) Each advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective treatment of substance abuse. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.

(a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.

(b) An assessment of needs and available services shall be included in the strategy.

Section 29. KRS 222.021 is amended to read as follows:

(1) There is hereby created within the Cabinet for Health Services a Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group. The work group shall carry out the planning and coordinating activities of the Commonwealth with regard to ***smoking cessation and prevention and*** substance dependency and abuse among pregnant women and other women of childbearing age.

(2) The work group shall be appointed by the secretary for health services and be composed of, but not restricted to, a representative of the ***Kentucky Agency for Substance Abuse Policy;*** Cabinet for Health Services, Department for Public Health, Division of Maternal and Child Health Services; Department for Social Services; Department for Social Insurance; Department for Mental Health and Mental Retardation Services, Division of Substance Abuse and Division of Mental Health; Department for Medicaid Services; Justice Cabinet, Department of State Police, Drug Enforcement, Special Investigations Unit; Department of Education, Division of Program Resources; Office of the Attorney General; Office for a Drug Free Kentucky; Kentucky Commission on Women; Regional Community Mental Health and Mental Retardation System; University of Kentucky Institute on Women and Substance Abuse; University of Louisville, School of Medicine, Department of Pediatrics; University of Kentucky Medical Center, Department of Obstetrics and Gynecology; local or district health department; Kentucky Psychological Association; Kentucky Pharmacists Association; Kentucky Hospital Association; Kentucky Nurses Association; and the Kentucky Medical Association; Kentucky Chapter of the National Association of Social Workers; Kentucky Association of Addiction Professionals; Kentucky Prevention Network; Coalition for Women's Substance Abuse Services; Kentucky Women's Advocates; Kentucky Youth Advocates; Kentucky Chapter of the March of Dimes; Foster Parent Association; and the Homeless Coalition.

(3) The Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group shall be chaired jointly by the Director of the Division of Substance Abuse and another member of the work group who has been elected by the membership of the work group. The work group shall meet at least quarterly and shall periodically assess the extent of ***smoking abuse and*** alcohol and other substance dependency and abuse among Kentucky women who are pregnant and other women of childbearing age; identify, develop, and coordinate resources available and needed within the Commonwealth for any woman who is pregnant or of childbearing age and at risk of ***smoking abuse and*** alcohol and substance dependency or abuse; and identify, develop, and coordinate resources available and needed for infants and children exposed to alcohol***,*** ***smoking,*** or drugs in utero or through alcohol***, smoking,*** or drug abuse in the home.

(4) The work group shall make a biennial report, no later than January 1 of each odd-numbered year, of its activities and any recommendations to the Secretary of the Cabinet for Health Services and the Legislative Research Commission.

(5) The provisions of subsections (1) to (4) of this section, creating a Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group shall expire on July 15, 2002. As of that date, the Substance Abuse, Pregnancy, and Women of Childbearing Age Work Group shall cease to exist.

Section 30. KRS 222.037 is amended to read as follows:

(1) The Cabinet for Health Services may establish four (4) or more pilot projects within the Commonwealth to demonstrate the effectiveness of different methods of providing community services to prevent ***smoking and*** alcohol and substance abuse by pregnant females; improving agency coordination to better identify the pregnant ***smoker and*** substance abuser and other females who have ***smoking and*** substance abuse problems; linking with community services and treatment for the chemically dependent woman, her children, and other family members; and gaining access to early intervention services for infants in need.

(2) The cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

Section 31. KRS 222.211 is amended to read as follows:

(1) The cabinet shall***, in conjunction with KY-ASAP and in furtherance of the strategic plan developed in Section 27 of this Act,*** coordinate matters affecting ***tobacco addiction and*** alcohol and other drug abuse in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of ***tobacco addiction and*** alcohol and other drug abuse within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:

(a)[~~(1)~~]Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of ***tobacco addiction and*** alcohol and other drug abuse related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or nonuse of ***tobacco,*** alcohol***,*** and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;

(b)[~~(2)~~]Intervention services for the purpose of identifying, motivating, and referring individuals in need of ***tobacco addiction and*** alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;

(c)[~~(3)~~]Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;

(d)[~~(4)~~]Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;

(e)[~~(5)~~]Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on a outpatient basis;

(f)[~~(6)~~] Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders;

(g)[~~(7)~~]Training programs for personnel working in the field of prevention, intervention, and treatment of ***tobacco addiction and*** alcohol and other drug abuse problems; and

(h)[~~(8)~~] Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.

(2) The cabinet shall comply with all policy recommendations of KY-ASAP, and shall honor requests for information from the Kentucky Agency for Substance Abuse Policy created under Section 26 of this Act.

Section 32. To the extent possible and as necessary to implement the provisions of this Act, the Governor shall utilize the existing infrastructure of the CHAMPIONS for a Drug Free Kentucky Office.";

On page 48, line 6, delete "26" and insert "33" in lieu thereof;

On page 48, line 24, delete "27" and insert "34" in lieu thereof;

On page 48, line 25, after "1999," insert "and Executive Order 99-1465, dated November 1, 1999,"; and

On page 48, line 25, after "extent" delete "it is" and insert "they are" in lieu thereof.

Floor Amendment No. 10 to the House Committee Substitute to **SB 409**, by Representative Barrows:

On page 7, line 20, after "***public***" by deleting "***or***"; and

on line 21, before "***water***" by deleting "***private***"; and

On page 13, line 22, after "agency", by deleting "***or an investor-owned water utility***"; and

On page 25, line 5, after "agencies" by deleting "***, and investor-***"; and

on line 6, by deleting "***owned water systems as provided for in Sections 8, 9, 11, and 12 of this Act,***"; and

On page 3, line 21, after "***Act.***" by inserting "***The executive director and members of the Kentucky River Authority shall be invited to attend and allowed to participate in forums related to service strategies affecting counties within the watershed of the Kentucky River.***"; and

On page 4, line 1, after "***Act.***" by inserting "***Plans developed for counties within the Kentucky River watershed shall be consistent with the planning conducted by the Kentucky River Authority under KRS 151.720 (11) and (12).***"; and

on line 7, after "***Act.***" by inserting "***The Kentucky River Authority shall review water management planning***

council plans and direct revisions of the plans as necessary to be consistent with the plans of the Kentucky River Authority established under KRS 151.720 (11) and (12)."

Floor Amendment No. 1 to **SB 260**, by Representative Geveden:

On page 2, below line 26, to insert the following:

"Section 2. KRS 527.070 is amended to read as follows:

(1) A person is guilty of unlawful possession of a weapon on school property when he knowingly deposits, possesses, or carries, whether openly or concealed, for purposes other than instructional or school-sanctioned ceremonial purposes, or the purposes permitted in subsection (3) of this section, any firearm or other deadly weapon, destructive device, or booby trap device in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field, or any other property owned, used, or operated by any board of education, school, board of trustees, regents, or directors for the administration of any public or private educational institution. The provisions of this section shall not apply to institutions of postsecondary or higher education.

(2) Each chief administrator of a public or private school shall display about the school in prominent locations, including, but not limited to, sports arenas, gymnasiums, stadiums, and cafeterias, a sign at least six (6) inches high and fourteen (14) inches wide stating:

UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL
PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE
BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A
TEN THOUSAND DOLLAR ($10,000) FINE.

Failure to post the sign shall not relieve any person of liability under this section.

(3) The provisions of this section prohibiting the unlawful possession of a weapon on school property shall not apply to:

(a) An adult who ***is not a student enrolled in an elementary or secondary school*** who possesses a firearm, if the firearm is contained within a vehicle operated by the adult and is not removed from the vehicle, except for a purpose permitted herein, or brandished by the adult, or by any other person acting with expressed or implied consent of the adult, while the vehicle is on school property;

(b) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a school club or team, to the extent they are required to carry arms or weapons in the discharge of their official class or team duties;

(c) Any peace officer or police officer authorized to carry a concealed weapon pursuant to KRS 527.020;

(d) Persons employed by the Armed Forces of the United States or members of the National Guard or militia when required in the discharge of their official duties to carry arms or weapons;

(e) Civil officers of the United States in the discharge of their official duties. Nothing in this section shall be construed as to allow any person to carry a concealed weapon into a public or private elementary or secondary school building;

(f) Any other persons, including, but not limited to, exhibitors of historical displays, who have been authorized to carry a firearm by the board of education or board of trustees of the public or private institution;

(g) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the board of education or board of trustees of the educational institution;

(h) A person possessing unloaded hunting weapons while traversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands, unless the lands of the educational institution are posted prohibiting the entry; or

(i) A person possessing guns or knives when conducting or attending a "gun and knife show" when the program has been approved by the board of education or board of trustees of the educational institution.

(4) Unlawful possession of a weapon on school property is a Class D felony.".

Floor Amendment No. 8 to **SB 1**, by Representative Moberly:

On page 15, line 15, after the period, insert the following: "***The Collaborative Center for Literacy Development: Early Childhood through Adulthood created under Section 29 of this Act shall evaluate the reading and literacy components of model programs funded under this paragraph.***";

On page 35, after line 14, insert the following:

"Section 16. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

- (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
- (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
- (c) Members of boards and commissions;
- (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;
- (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;
- (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
- (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
- (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;
- (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
- (j) Physicians employed as such;
- (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
- (l) The judicial department, referees, receivers, jurors, and notaries public;
- (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
- (n) Patients or inmates employed in state institutions;
- (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
- (p) Interim employees;
- (q) Officers and members of the state militia;
- (r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;
- (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;
- (t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);
- (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
- (v) County and Commonwealth's attorneys and their respective appointees;
- (w) Chief district engineers and the state highway engineer;
- (x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;
- (y) Employees of the Kentucky Peace Corps;
- (z) Employees of the Council on Postsecondary Education; and
- (aa) Chief information officer of the Commonwealth.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 17. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means ***the***~~[a]~~ commissioner ***for the Department of Technical Education*** or any person authorized by ***the***~~[a]~~ commissioner to act on behalf of ***the department***~~[his particular agency of the Cabinet for Workforce Development]~~ with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. ***The***~~[Such]~~ designation shall be in writing and signed by both the commissioner and ***the***~~[his]~~ designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)(i).

(3) "Board" means the State Board for Adult and Technical Education created by KRS 151B.095.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the ~~[Department for Adult Education and Literacy and the]~~Department for Technical Education are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

(9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education requiring certification or its equivalent.

(10) "Employee" means a person regularly employed in a position in the~~[Department for Adult Education and Literacy and~~

~~the~~] Department for Technical Education for which compensation is on a full-time or part-time basis.

(11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education shall be subject to personnel administration under this chapter.

(12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.

(13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(15) "Limited status" means employment that is renewable on an annual basis.

(16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.

(17) "Position" means employment involving duties requiring the services of one (1) person.

(18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(22)[~~ "Region" means a grouping of counties as defined in respective state plans for vocational education.~~

~~(23)~~] "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.

(23)[~~(24)~~] "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(24)[~~(25)~~] "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(25)[~~(26)~~] "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(26)[~~(27)~~] "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position[~~, as well as any assistant or secretary attached to the position,~~] who shall be exempt from the state service under KRS Chapter 18A and who is employed in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education under this chapter.

Section 18. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education central *office and*[~~offices,~~] state-operated vocational facilities[~~, and regional staffs~~]. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the board and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education.

(5) The commissioner for~~[Adult Education and Literacy and the commissioner for]~~ Technical Education shall be the appointing ***authority***~~[authorities]~~ with respect to all personnel actions for ***the department***~~[their respective departments]~~. ***The***~~[Each]~~ commissioner may authorize a designee to act on behalf of ***the***~~[this]~~ agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. ***Any personnel***~~[Such]~~ designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. ***Effective August 15, 2000, appeals from assistants and secretaries in the Department for Technical Education and the Department for Adult Education and Literacy attached to policymaking positions shall be governed by KRS 18A.095, effective August 15, 2000. The State Personnel Board, established in KRS 18A.045. shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the Department for Technical Education and personnel in the Department for Adult Education and Literacy.***

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 19. KRS 151B.040 is amended to read as follows:

(1) All certified, equivalent, and unclassified employees in the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education shall be:

(a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;

(b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;

(c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;

(d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;

(e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and

(f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.

(2) Employees under the jurisdiction of the~~[Department for Adult Education and Literacy and the]~~ Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the departments shall be placed in the Kentucky Teacher's Retirement System.

Section 20. KRS 151B.045 is amended to read as follows:

(1) The records of the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2) (a) A personnel file shall be maintained by the departments for each employee. The files maintained by the departments shall be the official personnel file for the employees.

(b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.

(c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his ***or her*** right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.

(3) Upon written request, an employee shall have the right to examine his ***or her*** personnel file. An employee may comment in writing on any item in the file. ***The***[~~Such~~] comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.

(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 21. KRS 151B.055 is amended to read as follows:

(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the[~~ Department for Adult Education and Literacy and the~~] Department for Technical Education.

(2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the intent to dismiss is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or ***a***[~~his~~] designee.

(3) The departments shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner or ***a***[~~his~~] designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult and technical education or ***a***[~~his~~] designee.

(5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the commissioner or ***a***[~~his~~] designee, excluding the day the employee's request is received, unless the employee and the commissioner or ***a***[~~his~~] designee agree to a later date.

(6) No later than five (5) working days after the employee appears before the commissioner or ***a***[~~his~~] designee, excluding the day of the appearance, the commissioner or ***a***[~~his~~] designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the commissioner or ***a***[~~his~~] designee determines that the employee shall be dismissed, the employee shall be notified in writing of:

(a) The effective date of dismissal or other penalization;

(b) The specific reason for the action, including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the dismissal is based;
3. The date, time, and place of the action or activities; and
4. The names of the parties involved; and

(c) That the employee may appeal the dismissal to the State Board for Adult and Technical Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.

(8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:

(a) The demotion or suspension;

(b) The effective date of the demotion or suspension;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the demotion or suspension is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(d) That the employee has the right to appeal to the State Board for Adult and Technical Education within thirty (30) days, excluding the day of receipt of notification.

(9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.

(10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(11) (a) Appeals to the State Board for Adult and Technical Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The ***Department for Technical Education***~~[departments]~~ shall be responsible for the distribution of the forms.

(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.

(c) Upon receipt of the appeal by the board, the~~[appropriate]~~ commissioner shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.

(12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.

(b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his ***or her*** right to appeal the denial under the provisions of KRS 151B.060.

(c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.

(13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(15) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws

prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the commissioner shall immediately reinstate the employee to his ***or her*** former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his ***or her*** former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and

(d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.

(16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

Section 22. KRS 151B.065 is amended to read as follows:

(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the~~[Department for Adult Education and Literacy or the]~~ Department for Technical Education~~[as appropriate]~~. The department shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.

(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The State Board for Adult and Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.

(c) All other deductions shall be deducted as required by law or by other state regulation.

(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.

(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 23. KRS 151B.070 is amended to read as follows:

(1) All certified and equivalent employees shall serve a one (1) year probationary period for renewal of limited status. An employee may be separated from the position or reduced in class during this initial probationary period and shall not have a right to appeal except as provided in KRS 151B.055. If the employee is separated from the position, notice in writing shall be received at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. Unless the commissioner notifies the employee of separation prior to the end of the initial probationary period, the employee shall be eligible for renewable limited status. Limited status employees are subject to reemployment on an annual basis. ***Limited status employees may be dismissed without cause before the annual anniversary date.***

(2) After completion of the initial probationary period, the individual shall be considered on limited status until successful completion of the fourth year, at which time the employee may be placed on continuing status.

(3) An employee who has been assigned continuing status may not be demoted, disciplined, or dismissed without cause except as provided by provisions in this chapter.

(4) An employee with continuing status who has been promoted shall serve a probationary period of one (1) year in the new position. During the period of promotional probation, the employee shall retain the rights and privileges granted by the provisions of this chapter to continuing status employees.

(5) During the promotional probationary period, the employee with continuing status may be reverted at the discretion of the appointing authority to a position in the class formerly held.

(6) A continuing status employee who has been laid off may return to a position with continuing status if an appropriate position is available.

Section 24. KRS 151B.080 is amended to read as follows:

(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.

(2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The Department ***for Technical Education*** shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.

(5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the[~~ Department for Adult Education and Literacy or the~~] Department for Technical Education, except another laid-off employee with more seniority who is already on the list.

(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:

(a) The laid-off employee notifies ***the***[~~his~~] department in writing that he ***or she*** no longer wishes to be considered for a position on the list;

(b) Two (2) written offers of appointment are declined, ***the***[~~such~~] offers to be for a position of the same classification and salary, and located in the same ***county or contiguous counties***[~~region~~], as the position from which laid off;

(c) ***Two (2) written offers to schedule an interview are made and the laid-off employee fails to respond to a certified letter requesting the laid-off employee to schedule an interview within ten (10) working days;***[~~Without good cause, ~~]

(d) The laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;

(e)[~~(d)~~]The laid-off employee cannot be located by postal authorities at the last address provided; or

(f)[~~(e)~~] The laid-off employee has willfully violated the provisions of this chapter.

(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.

(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 25. KRS 151B.085 is amended to read as follows:

(1) A layoff of an employee with continuing status in ***the Department for Technical Education***[~~his department~~] due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.

(2) Prior to the notification of layoff and prior to the layoff of an employee, ***the***[~~a~~] department shall prepare a layoff plan. The plan shall contain the name of the employee and the reasons, in detail, for the layoff. Upon approval of the plan by the[~~ appropriate~~] commissioner, the employee shall be notified of the pending layoff, and of:

(a) The reason for the layoff;

(b) The procedures established by the provisions of KRS 151B.080, and this section for the layoff of employees; and

(c) The rights granted employees subject to layoff and to laid-off employees.

(3) (a) An employee subject to layoff shall be considered for a vacant position within ***the***[~~his~~] department of the same pay grade, level of duties, and responsibilities for which the employee is qualified.

(b) If a vacancy does not exist, the employee shall be considered for any vacant position within his department for which qualifications are held.

(4) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the layoff.

Section 26. KRS 158.360 is amended to read as follows:

(1) The[~~ State Board for Adult and Technical Education shall approve grants and authorize the~~] Department for Adult Education and Literacy ***shall provide technical assistance to providers to develop family literacy services. The technical assistance shall be evaluated on a regular basis by contracted evaluators outside the department***[~~to disburse funds to selected local educational agencies, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide model family literacy services to adults and families. The programs shall be~~

~~known as Parent and Child Education for Family Independence Programs. The Department for Adult Education and Literacy shall annually report to the State Board for Adult and Technical Education, and the Legislative Research Commission for each grantee, the total funds expended, the number of parents and children served, the number of participants receiving public assistance at the time they enter the program, and the number of participants who have been removed from public assistance because of participation in the program]~~.

(2) The programs shall:

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of undereducation and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services~~[;~~

~~The programs may operate on a year-round basis. The programs may also be blended with other programs as long as all criteria in this subsection are met.~~

~~(3) Eligible participants shall be those parents who are sixteen (16) years of age or older, not enrolled in a regular secondary school program, and who do not possess a high school credential, or who have a high school credential but function below a twelfth grade level and their children, age zero (0) to eight (8) years.~~

~~(4) Priority in the selection of grant awards shall be based on the county's low level of literacy in the adult population, high numbers of unemployed, and high levels of poverty.~~

~~(5) A minimum of five percent (5%) of the funds appropriated to support the Parent and Child Education for Family Independence statewide effort shall be retained by the Department for Adult Education and Literacy to provide a statewide professional staff development program]~~.

Section 27. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education ***and adult education*** in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities***,*** ~~[and]~~the

Kentucky Community and Technical College System***, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including, but not limited to, appropriations to the Department for Adult Education and Literacy***. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(14) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(18) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(19) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(20) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(21) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and

statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment;

(22) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(23) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(24) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include, but not be limited to, the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(25) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under KRS 164.013;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;~~[and]~~

(33) ***Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Department for Adult Education and Literacy, for raising the knowledge and skills of the state's adult population. The council shall:***

- ***(a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Department for Adult Education and Literacy and with other agencies and institutions;***
- ***(b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;***
- ***(c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;***
- ***(d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and***
- ***(e) Administer the adult education and literacy initiative fund created under Section 7 of this Act; and***

(34) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 28. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education***, in consultation with the Department for Adult Education and Literacy and the Collaborative Center for Literacy Development: Early Childhood through Adulthood*** shall ***assess the need for technical assistance, training, and other***~~[establish regional advisory groups and shall provide necessary staff]~~ support to assist in the development of ***adult education and***~~[regional strategies for]~~ workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The ***council shall promote the involvement of***~~[regional advisory groups shall be encouraged to:~~

~~(1) Involve]~~ universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives~~[from regional and state labor market areas]~~; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies~~[; and~~

~~(2) Assist with an annual review of progress toward the regional strategies]~~.

Section 29. KRS 164.0207 is amended to read as follows:

(1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available training for educators in reliable, replicable research-based reading models, and to promote literacy development. The center shall be responsible for:

(a) Developing and implementing a clearinghouse for information about models addressing reading and literacy from the elementary grades through adult education;

(b) Collaborating with public and private institutions of postsecondary education ***and adult education providers*** to provide for teachers and administrators quality preservice and professional development in early reading instruction, including phonics instruction;

(c) Assisting districts located in areas with low levels of reading skills to assess and address identified literacy needs;

(d) Providing professional development and coaching for classroom teachers***, including adult education teachers,*** implementing selected reliable, replicable research-based reading models;

(e) Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;~~[and]~~

(f) Establishing a demonstration and training site for early literacy located at each of the public universities***; and***

(g) Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under Section 7 of this Act.

(2) The center shall submit an annual report on its activities to the Governor and the Legislative Research Commission no later than September 1 of each year.

(3) With the advice of the Department of Adult Education and Literacy in the Cabinet for Workforce Development and the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location~~[no later than October 1, 1998,]~~ and monitor the ***progress***~~[establishment]~~ of the center.";

On page 35, line 15, delete "16" and insert "30" in lieu thereof; and

On page 35, after line 17, insert the following:

"Section 31. Sections 17 to 22 and 25 of this Act take effect August 15, 2000.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 202: Representative C. Belcher

HB 746: Representative C. Belcher

Announcements

The following meeting was announced:

Administrative Regulations Subcommittee, April 12, 2000, 10:00 a.m.

The following meeting was canceled:

Health and Welfare, April 12, 2000

Adjournment

The motion that the House adjourn until 10:00 a.m., April 14, 2000, was adopted by voice vote.

APRIL 14, 2000

SIXTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Tom Thomas, West Liberty Christian Church, West Liberty.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of April 11, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 209, SB 113, SB 49,** and **SB 77** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:36 a.m.)

Representative Stacy moved that the rules be suspended to grant floor privileges. Agreed.

Randall Wells, Morehead, sang the National Anthem.

Representative Stumbo moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 151**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Legislative Research Commission Interns serving during the 2000 Regular Session of the Kentucky General Assembly, for exhibiting exceptional skill, knowledge and dedication in support of Kentucky's legislature. These outstanding scholars from some of the finest colleges and universities in the Commonwealth and surrounding regions are commended for demonstrating excellence in the performance of their duties and enthusiasm in developing a thorough understanding of the legislative process. The members of this honorable body are delighted to join Representative Gregory D. Stumbo in expressing deep appreciation to these fine young Kentuckians for their impressive contributions to this most worthwhile and complex process. Done in Frankfort, this twenty-eighth day of March, in the year two thousand.

Legislative Citation No. 151 was adopted without objection.

On the roll call to show co-sponsors. (See April 14, 2000 roll call to show co-sponsors-Appendix.)

Representative Stumbo moved the adoption of the following **Legislative Citation No. 170**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Representative Eleanor Jordan for the integrity with which she has served as the Lady from Jefferson 42, for four outstanding years. A native of Louisville, and a former student at both Western Kentucky University and the University of Louisville, this dedicated public servant has consistently lent her powerful and impassioned voice to the issues of concern to her constituents and, as a result, has earned the admiration and trust of all those she has faithfully represented. A distinguished member of the Alpha Kappa Alpha Sorority, Representative Jordan is an active member of the National Association for the Advancement of Colored People and has consistently shown a particular regard for the well-being of the young people of this Commonwealth and nation as a child care director and an active member of the National Association for the Education of Young Children, the West Louisville Child Care Alliance, the Parkland Alliance and the Louisville Early Childhood Association. Inasmuch as this remarkable public servant has represented the citizens of District 42 with tireless devotion and unwavering integrity, the members of this most august body do hereby join with Speaker Jody Richards in extending sincere sentiments of appreciation to Representative Jordan and in offering her very best wishes for sustaining good fortune and success. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 170 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 168**.

The House of Representatives of the Commonwealth of Kentucky hereby extends deepest sentiments of appreciation and esteem to Representative Stan Cave as he steps down as the Gentleman from Fayette 45, after an impressive tenure in the Kentucky House of Representatives. An honored graduate of the University of Kentucky Law School, Representative Cave is an accomplished attorney in Lexington, Kentucky, and has served on numerous committees and boards during his legislative career, including the Banking and Insurance Committee, the Judiciary Committee and the State Government Committee and chaired the Minority Caucus from 1995 until 1999. In addition, he has worked with the Fayette County Republican Party Executive Committee, the Central Kentucky Blood Center, is a member of the Fayette County and Kentucky Bar Associations in the Business and Commercial Law Sections and served as treasurer and member of the board and finance committee for the Community Ventures Corporation. The honor and integrity that this beloved public servant has displayed during his years in the Kentucky House of Representatives have earned him the utmost esteem and gratitude of each member of the General Assembly and, in recognition of such, they are pleased to join with Representative Danny Ford in enthusiastically applauding the contributions of Representative Stan Cave and in wishing for him continued prosperity and success. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 168 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 169**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Representative Ricky Cox upon the occasion of his imminent retirement from this distinguished body, having served with great diligence and distinction the citizens of Adair and Taylor Counties. An honorable United States Army veteran and graduate of Campbellsville College and the University of Kentucky Dental School, Representative Ricky Cox is a highly-respected dentist and farmer in Campbellsville, Kentucky. This devoted public servant serves on the Campbellsville-Taylor County Chamber of Commerce and the Taylor County Community Health Council and is a member of the American Dental Association. As a member of the Kentucky General Assembly, his contributions to the Agriculture and Natural Resources Committee, the Labor and Industry Committee and the Local Government Committee have been deeply appreciated. The esteemed members of the Kentucky House of Representatives are honored to join Representative Danny Ford in paying tribute to Representative Ricky Cox and in extending to him best wishes for continued success and good fortune. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 169 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 171**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Representative Billy D. Polston upon the occasion of his imminent retirement as an esteemed member of this honorable legislative body. Having faithfully served the members of Cumberland, Green, Metcalf and Monroe Counties since his election in 1997, this distinguished graduate of Lindsey Wilson College and the Kentucky School of Mortuary Science currently serves as a member of the Agriculture and Natural Resources Committee, the Banking and Insurance Committee and the Seniors, Military Affairs and Public Safety Committee. Representative Polston is a highly-respected Insurance Sales Agent and was the Monroe County Coroner for eight years. Inasmuch as this distinguished gentleman has served with such honor and sincerity those citizens whose interests he represents, the members of this most august body do hereby join Representative Danny Ford in expressing sincerest appreciation for the distinctive voice that Representative Polston has so consistently lent this body and in extending to him enthusiastic best wishes for many more landmarks for success as he steps down as the dedicated representative of House District 53. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 171 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 167**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Representative Dr. J. C. "Bo" Ausmus III for the dedication and integrity with which he has served the citizens of Bell and Leslie Counties during his tenure as a member of the Kentucky House of Representatives. A highly-respected chiropractor in Middlesboro, Kentucky, Representative Ausmus is an honored graduate of Logan College, where he received his bachelor of science in human biology, and the Logan College of Chiropractic where he earned his Doctor of Chiropractic. The Gentleman from Bell 87, has been an active member of the Economic Development and Tourism Committee, the Health and Welfare Committee and the Local Government Committee. Inasmuch as Representative Dr. J. C. "Bo" Ausmus III has consistently, during his legislative career, served as an honorable public servant, continually giving voice to the concerns of the citizens of his district and of this fine

Commonwealth, the members of this august body do hereby join with Representative Danny Ford in extending highest regard and esteem for the many and generous contributions that he has made as a legislator in the Kentucky General Assembly and in offering best wishes that he may prosper and succeed in all future endeavors. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 167 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 172**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Representative Chris Ratliff as he departs from this Chamber following two extraordinary years as the Gentleman from Pike 93, where he has represented the interests of his constituents with the utmost integrity and honor. A highly-respected attorney in Pikeville, Kentucky, Representative Ratliff is an esteemed graduate of Princeton University and the University of Florida Law School and is an honored member of the Pike County, Kentucky and Florida Bar Associations. This distinguished servant of the Commonwealth has labored with distinction on behalf of the citizens of his district, serving as a member of the Pike County Chamber of Commerce, the Pikeville Board of Zoning Adjustments and as Chair of the Pike County Republican Party. In addition to his accomplishments in the political arena, Representative Ratliff is a gentleman devoted to his community and actively participates in the Pikeville Rotary Club. The distinguished members of the Kentucky House of Representatives are honored to join Representative Danny Ford in recognizing the outstanding career of Representative Chris Ratliff and in extending to him best wishes that he may enjoy continued success and good fortune in all future endeavors. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 172 was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 195**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory and honor of Moorman "Monie" Beard and offers its sincerest condolences to the Beard Family and to all those who share in the loss of this distinguished Kentucky citizen. A native of Hardinsburg, and longtime resident of Bowling Green, Warren County, Kentucky, he was the loving son of the late Ralph Beard, Sr., and the late Sue Moorman Beard; the devoted husband of Betty Jo Gaddie Beard; the cherished father of Sandy Hockensmith, Page Horstmeyer, Roy Moorman Beard and Lee Douglas Beard; the proud grandfather of eleven grandchildren; and the loving brother of Ralph Beard, Jr. Following his graduation from Western Kentucky University, he served his country with distinction in the United States Army and was a devout member of the Presbyterian Church where he was a deacon and elder. An outstanding citizen, devoted to the community, he further served as president of Gaddie Shamrock, Inc., vice president of Cumberland Concrete Pipe, director of the First National Bank in Columbia, past president of Kentucky Highway Contractors Association, and past president of Plantmix Industry. A passionate sports enthusiast, he was a lifelong benefactor to all Bowling Green High School athletics, contributing countless hours to sporting events, where he was radio co-announcer for BGHS, served as former president of Bowling Green East Little League and Potter-Gray Elementary School, as a board member for Parks and Recreation Youth Football League and the Bowling Green Boys' Club. The members of this most honorable body join with Speaker Jody Richards in adjourning this legislative day in memory and honor of Moorman "Monie" Beard, whose passion, dedication, intelligence and social consciousness will be forever held dear by his family, his community and this great Commonwealth. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 195 was adopted without objection.

Representative Bowling moved the adoption of the following **Legislative Citation No. 185**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of William E. "Bunny" Davis and expresses appreciation to this gallant and public-spirited gentleman for his many continued years of faithful and conscientious service as Chief Doorkeeper for the Kentucky House of Representatives. Since working his first Regular Session of the Kentucky General Assembly in 1976, "Bunny" Davis has earned the respect and good will of all those passing through the august doors of the House Chamber. The entire membership is pleased to join Representative John W. D. Bowling in paying tribute to William E. "Bunny" Davis and in adjourning this last legislative day of the 2000 Kentucky General Assembly in his honor. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 185 was adopted without objection.

Representative Upchurch moved the adoption of the following **Legislative Citation No. 189**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Thomas Dickinson Myers for outstanding service rendered to the Commonwealth of Kentucky in his capacity as Chair of the Health Education Department; Coordinator of Allied Health Programs; and in his current role as Vice President for Student Affairs and Professor of Health at Eastern Kentucky University. His tireless commitment to the students, including genuine interest in their accomplishments following graduation, have had tremendous impact on those served by the University. Educated at Bowling Green State and Temple Universities, he served as a Fulbright Administrator and was assigned to Germany during reunification; served as an Educational Advisor to China; and participated in the National Speakers Bureau Program, "What's Right with American Youth." An avid supporter of the tenets of Scouting, he has served since 1968 on the Blue Grass Council, as a board member of the Southern Region Boy Scout Council since 1988, as the Area Six Vice President since 1990, on the National Council since 1984, and earned the Silver Beaver Award in 1978 and the Silver Antelope Award in 1995. Deeply committed to the community, he is active in Masonic organizations, the United Way, the National Association for Student Personnel Administrators and the Phi Kappa Psi National Scholarship program. Inasmuch as Thomas Dickinson Myers has worked with tremendous dedication and diligence for the betterment of his community and the citizens of this great Commonwealth, the members of this honorable body are delighted to join Representative Ken Upchurch in applauding him for his many accomplishments and in extending best wishes as he continues to lend his many talents to those efforts devoted to serving the common good. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 189 was adopted without objection.

Representative Sims moved the adoption of the following **Legislative Citation No. 197**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory of Rose Marie Corrao Lang and respectfully joins with Representative Dottie J. Sims in expressing its deepest sympathy to her beloved husband, George. Honored and remembered on this day for her many and generous contributions to her family, friends and community, Rose Marie Corrao Lang will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 197 was adopted without objection.

Representative Adkins moved the adoption of the following **Legislative Citation No. 136**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincere commendation and applause to Gerad Parker for his phenomenal performance as an athlete at Lawrence County High School, which culminated in his signing a national letter of intent to play college football at the University of Kentucky. The talent of Mr. Parker is reflected by the impressive statistics he has amassed during his high school career as a Bulldog where he is the all-time leading receiver on the high school level, catching 238 passes for 4,736 yards and 52 touchdowns. Inasmuch as this talented athlete has brought honor and acclaim to himself, his team and his school by the superior levels of skill and team spirit that he has consistently demonstrated, the members of this body are delighted to join Representative Rocky Adkins in applauding Gerad Parker for his outstanding athletic accomplishments and in extending best wishes for continuing success as a Wildcat. Done in Frankfort, this twenty-third day of March, in the year two thousand.

Legislative Citation No. 136 was adopted without objection.

Representative Adkins moved the adoption of the following **Legislative Citation No. 137**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincere commendation and applause to Alan Short for his phenomenal performance as an athlete at Lawrence County High School, which culminated in his signing a national letter of intent to play college football at Morehead State University. A quarterback for the Bulldogs who engineered twenty-five wins during his final two seasons on the high school gridiron and who will remain at that position at MSU, this talented athlete has brought great honor and acclaim to himself, his team and his school by the superior levels of skill and team spirit that he has consistently demonstrated. The members of this body are delighted to join Representative Rocky Adkins in applauding Alan Short for his outstanding athletic accomplishments and in extending best wishes for continuing success during his collegiate career. Done in Frankfort, this twenty-third day of March, in the year two thousand.

Legislative Citation No. 137 was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 194**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of H.C. "Doc" Franklin and expresses deepest sympathy to his loving wife, Geneva McClure Franklin; his beloved children, Dr. Robert Franklin, William Franklin, and Ann Coker; his devoted brother Beryl Franklin; and his cherished grandchildren and great-grandchildren. A native of Grayson County, he was the beloved son of the late Robert Harold Franklin and Nova Bell Franklin. He was a retired Lewisburg High School agriculture teacher, the former owner of Franklin Candy Company and Franklin Furniture Company, a former director of the Kentucky State Fair Board and Lewisburg Banking Company, and a member of Lewisburg Methodist Church and Lewisburg Masonic Lodge #324. Inasmuch as H.C. "Doc" Franklin is remembered this day as an outstanding citizen whose presence will long be cherished and sorely missed by those whose lives were touched by his kind countenance, the members of this august body do solemnly join with Representative Sheldon Baugh in extending sincere and heartfelt condolences to his loving family and friends. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 194 was adopted without objection.

Representative Heleringer moved the adoption of the following **Legislative Citation No. 182**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Essica Rowland Meadows Marshall and to join with Representative Bob Heleringer in expressing profound sympathy to all who share in the loss on the passing of this remarkable woman, the loving wife of the late Benjamin Martin Marshall; beloved mother of nine children; and cherished grandmother of twenty-seven grandchildren, fifteen great-grandchildren and six great-great-grandchildren. Born in Henry County, Kentucky, Essie Marshall lived most of her adult life on a farm in Eagle Station, which later became Sanders, Kentucky. Devoted to her family and friends, her memory will forever be held dear in the hearts of those whose lives were touched by her kind spirit and remarkable presence. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 182 was adopted without objection.

Representative Hoffman moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hoffman moved the adoption of the following **HR 180**:

HR 180, A RESOLUTION expressing support for the construction of a National World War II Memorial in Washington, D.C. to honor United States and Kentucky citizens who served in the Armed Forces and those who died during World War II.

WHEREAS, Public Law 103, enacted on May 2, 1993, by the 103rd Congress, authorized the construction of a memorial on federal land in the District of Columbia or its environs, in order to honor the sixteen million members of the Armed Forces who served in World War II and the four hundred six thousand who died, and to commemorate the United States' participation in that conflict; and

WHEREAS, 40 U.S.C. sec. 1003, created in the National Treasury a fund to be made available to the American Battle Monuments Commission for the expenses of establishing the memorial; and

WHEREAS, this law authorized the American Battle Monuments Commission and the World War II Memorial Advisory Board to promote the establishment of the memorial and to encourage donations for the memorial; and

WHEREAS, on November 11, 1995, the President dedicated a part of Constitution Gardens, at the east end of the gardens, between Constitution Avenue and the Rainbow Pool, as the site for the memorial; and

WHEREAS, Kentucky is proud of the three hundred twelve thousand Kentuckians who served in World War II and wishes to honor the six thousand two hundred and eleven Kentuckians who died in battle during that war; and

WHEREAS, twenty-five other states have introduced legislation seeking to donate one dollar to the National World War II Memorial for every resident who served in uniform during World War II from those states;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Recognizing the historical importance of the construction of the World War II Memorial in Washington, D.C., the House of Representatives urges the members' support of the Governor's inclusion of the sum of $312,000 for fiscal year 2000-2001, in the Executive Branch Budget Bill, an amount equal to one dollar ($1) for each resident of the Commonwealth of Kentucky who served in the Armed Forces of the United States during World War II. These funds shall be disbursed to the National World War II Memorial Fund, 2300 Clarendon Boulevard, Suite 501, Arlington, Virginia 22201.

Section 2. A copy of this Resolution shall be sent to Governor Paul E. Patton, Capitol Building, 700 Capitol Avenue, Frankfort, Kentucky 40601 and to the American Battle Monuments Commission, Post Office Box 96766, Washington, D.C.

20090-6766.

There being no objection **HR 180** was adopted.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 193**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest admiration and pride for the Bryan Station Band and also recognizes the remarkable leadership and instruction that Band Director Shawn Parrish has devoted to the talented members of the Bryan Station Traditional High School Marching Band. The most recent achievement of this phenomenal group of musicians was their victorious trip to Memphis, Tennessee, where they participated in the Liberty Bowl field competition, defeating six other schools from various states to be named Grand Champions, earning more trophies and plaques then any other band participating in the field show and parade, and winning the prestigious honor of performing in the pre-game show with the legendary blues singer, B.B. King. In addition, the Bryan Station Band Booster Percussion Pit Crew received recognition for its tremendous support of the band and was chosen to serve as the pit crew to Mr. King during his performance. Inasmuch as the members of the Bryan Station Band have truly set a sterling example of hard work and dedication to a worthwhile endeavor and have, by virtue of their consummate skill and professionalism, made great strides to continually improve their proficiency and talent, the members of this august body are delighted to join Representative Ruth Ann Palumbo in offering sincerest congratulations for this success which is so richly-deserved and in extending to these fine musicians of the Commonwealth sincere best wishes for good fortune and success in all future endeavors. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 193 was adopted without objection.

Representative Westrom moved that the rules be suspended to grant floor privileges to State Troopers. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 166**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Kentucky State Police who have generously and graciously lent their vital and reassuring presence to the proceedings of the 2000 Regular Session of the Kentucky General Assembly, thereby augmenting the safety, dignity and peace of mind of the members of the legislature and the citizens of this Commonwealth who have participated in this complex and challenging process. The professionalism, courtesy and dedication demonstrated by these members of the Commonwealth's "Thin Grey Line" in performance of their momentous duties are truly worthy of the highest praise and regard of those for whom they have labored. The members of the Kentucky House of Representatives are honored to join Representative Susan Westrom in expressing sentiments of sincere gratitude, recognition and admiration to these courageous public servants for their vital contributions and in extending best wishes for their continued success and good fortune. Done in Frankfort, this eleventh day of April, in the year two thousand.

Legislative Citation No. 166 was adopted without objection.

On the roll call to show co-sponsors. (See April 14, 2000 roll call to show co-sponsors-Appendix.)

Representative Stein moved that the rules be suspended to introduce and act upon a Resolution and a Legislative Citation. Agreed.

HR 196, by Representative Stein: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Curt B. Greene.

Representative Stein moved the adoption of the following **HR 196**:

HR 196, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Curt B. Greene.

With deepest respect and admiration, we pay homage and tribute to Curt B. Greene, and we pause in silent reverence for his soul.

WHEREAS, Curt B. Greene was born on January 27, 1949, a native of Forsyth, Illinois, and longtime resident of Lexington, Fayette County, Kentucky, and he traversed these earthly bounds on April 1, 2000; and

WHEREAS, Curt B. Greene was the loving son of John B. Greene and the late Margaret Cooper Greene; he was a loving special friend to Sallie G. Slone; he was the proud father of a son, Darin Patrick Greene, and two daughters, Natalie Ellen Greene and Valerie Erin Greene; he was the caring brother of Corwyn Greene of Pittsburgh, Pennsylvania; and he was the loving uncle of a niece and nephew, Ashley and Ryan Greene; and

WHEREAS, Curt B. Greene graduated from Southern Illinois University in 1971 where he studied journalism; he was employed as a reporter for the Decatur Herald and Review, and later, as an associate editor of the Horseman and Fair World; he was the author of two books, "The Kentucky Futurity, 100 Years with the American Trotter" and "The New Care and Training of the Trotter and Pacer" and he contributed to several trade journals, including TROT and the Hoosier Horse Review; and

WHEREAS, Curt B. Greene was an esteemed member of the equestrian community, and his expertise, knowledge, and experience gained him recognition and respect among his fellow peers; to mention only a few of his leadership accomplishments, he served as general manager of The Red Mile and Tattersalls Sales Company from 1982 until 1991, and afterwards, he served as a consultant in the United States, Canada, and Europe; he was past executive director of the Illinois Harness Horsemen's Association in Chicago; he was instrumental in the creation of the World Trotting Derby, and he served as past vice president for marketing and public relations for the Duquoin State Fair where he was responsible for marketing and press relations for harness racing's premier event, the Hambletonian; and

WHEREAS, the passion, dedication, and social consciousness Curt B. Greene brought to this Commonwealth will never be forgotten; his passing has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of bereavement and loss upon the passing of Curt B. Greene, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Curt B. Greene.

Section 3. The Clerk of the House of Representatives is hereby directed to transfer a copy of this Resolution to Ms. Sallie G. Slone, 1093 Crimson Creek, Lexington, Kentucky 40509.

There being no objection **HR 196** was adopted.

Representative Stein moved the adoption of the following **Legislative Citation No. 180**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds Joel Pett upon being awarded the prestigious 2000 Pulitzer Prize for editorial cartooning. A native of Bloomington, Indiana, he began his editorial career as a free-lance cartoonist for a local paper in his hometown over twenty years ago. In 1984, he became the Lexington Herald-Leader's first editorial cartoonist and has amassed numerous accolades for his extraordinary wit and courage in depicting and commenting on local, state and national issues which are always pertinent and frequently controversial. The recipient of the 1999 Robert F. Kennedy Journalism Award for exploring the problems of the disadvantaged and the 1995 Global Media Award for his commentary on population issues; he was a finalist for the Pulitzer Prize in both 1989 and 1998; and served, in 1999, as president of the Association of American Editorial Cartoonists. While this accomplished editorialist, widely known and respected throughout the field of editorial cartooning, has been both applauded and criticized for the firm stance that he has taken on issues ranging from gun control and school violence to health care and the recent bottle bill, he has maintained the admiration and respect of both his peers and those whom he has informed and commented on. Inasmuch as Joel Pett has made phenomenal contributions to the field of journalism and editorial cartooning by his consistent talent and fearlessness, the members of this august body are delighted to join Representative Kathy W. Stein in expressing sincerest congratulations for this richly deserved honor and in extending best wishes for continued success and good fortune as he ably serves the citizens of this fine Commonwealth. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 180 was adopted without objection.

Representative Weaver moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Weaver moved the adoption of the following **HR 186**:

HR 186, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Major Robert Stephen Hacker.

With deepest respect and admiration, we pay homage and tribute to Major Robert Stephen Hacker, and we pause in silent reverence for his soul.

WHEREAS, Major Robert Stephen Hacker was born on January 1, 1962, a native of Richmond, Madison County, Kentucky, and he traversed these earthly bounds on July 8, 1998; and

WHEREAS, Major Robert Stephen Hacker was the loving son of Lt. Colonel (retired) Warden P. "Percy" Hacker and Shirley Tirey Hacker; he was the devoted husband of Shelly Jasper Hacker, and the loving father of a son, Kyle Hayden Hacker; he was the loving brother of a sister, Leona Lou Smith, and two brothers, Charles William Hacker and Daniel Reid Hacker; he was the loving grandson of Charles Hayden Tirey and Geneva Daniel Tirey and the late Oscar and Catherine Hacker; and

WHEREAS, Major Robert Stephen Hacker, a member of Headquarters and Headquarters Company, 201st Engineer Battalion of the Kentucky Army National Guard died of injuries received in a vehicle accident while on active duty in the Esmeraldas Province of the South American nation of Ecuador; and

WHEREAS, Major Robert Stephen Hacker was a Kentucky Army National Guard engineer for eighteen years, and he was a veteran of numerous overseas deployments to Latin America and the Caribbean. At the time of his passing, he was in Ecuador as part of the command element for Nuevos Horizontes (New Horizons), the Kentucky National Guard's humanitarian relief mission. He was a member of the mission's duration team and the operations officer for the exercise task force, supervising the fielding of troops and overseeing numerous projects; and

WHEREAS, Major Robert Stephen Hacker was an outstanding professional Army officer, and he had a unique reputation in training soldiers for war, but he will best be remembered and admired for the role he played in responding to the needs of the community in which he lived during numerous emergencies and natural disasters, and for his intense interest in helping others less fortunate, whether it was directing relief efforts during floods or snowstorms in Kentucky, building an orphanage on the Caribbean island of Dominica or a medical clinic in Ecuador, he was committed to improving the lives of his fellow man; and

WHEREAS, a life spent worthily should be measured by deeds, not years, and Major Robert Stephen Hacker is worthy of the highest commendation, and because of his humanitarian efforts and his genuine love and concern for people less fortunate, a school is being dedicated in his honor on April 3, 2000, in the Esmeraldas Province of Ecuador; and

WHEREAS, the passing of Major Robert Stephen Hacker has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement upon the passing of Major Robert Stephen Hacker, and extends to his family and friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, Monday, March 27, 2000, it does so in loving memory and honor of Major Robert Stephen Hacker.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Shelly Jasper Hacker, 2928 Newman Street, Ashland, Kentucky 41101; to Mr. and Mrs. Warden P. Hacker, 2040 Catalpa Loop, Richmond, Kentucky 40475; and five copies to the Adjutant General of the Kentucky National Guard, Boone National Guard Center, Frankfort, Kentucky 40601.

There being no objection **HR 186** was adopted.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 184**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Bill Analyst Staff of the Speaker's Office for exemplary performance and impressive contributions to the legislative process during the 2000 Regular Session of the Kentucky General Assembly. Inasmuch as these distinguished employees, Gordon Mullins, Dianna McClure, Rhonda Franklin and Andrea Tackett, along with interns Erica Butler and Michael Rhinehart, have indeed acted as an integral element of discernment and support; now let it be known that the members of this honorable body are delighted to join with Speaker Jody Richards in commending the exceptional dedication and work ethic of these consummate professionals and in extending deepest appreciation and gratitude for the essential contributions each has provided to this complex and challenging process. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 184 was adopted without objection.

Introduction of Resolutions

HR 197, by Representatives Palumbo, Westrom, and Stein: A RESOLUTION adjourning the House of Representatives in honor of Joel Pett upon being the recipient of the 2000 Pulitizer Prize for editorial cartooning.

HCR 198, by Representative Stumbo: A CONCURRENT RESOLUTION adjourning the 2000 Regular Session of the General Assembly sine die.

HR 199, by Representative Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Moorman "Monie" Beard.

HR 200, by Representatives Richards, Moberly, L. Clark, Rasche, Callahan, Stumbo, and Barrows: A RESOLUTION commemorating the Tenth-Year Anniversary of the passage of the Kentucky Education Reform Act.

HR 201, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in honor of the Bryan Station Traditional High School Band.

Representative Westrom moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Westrom moved the adoption of the following **HR 197**:

HR 197, A RESOLUTION adjourning the House of Representatives in honor of Joel Pett upon being the recipient of the 2000 Pulitzer Prize for editorial cartooning.

WHEREAS, Joel Pett, the Lexington Herald-Leader's Editorial Cartoonist, became the recipient of the 2000 Pulitzer Prize for editorial cartooning on April 10, 2000; and

WHEREAS, this very deserving satirist and outstanding cartoonist's Pulitzer entry consisted of 20 cartoons drawn in 1999, ten on national issues and ten on local issues, with topics ranging from health to gun control to school violence; and

WHEREAS, Joel Pett's genius in creating editorial cartoons has awakened the public conscience in the Commonwealth of Kentucky since 1984, when he became the Lexington Herald-Leader's Editorial Cartoonist, and his drawings have been reprinted in many leading newspapers and magazines; and

WHEREAS, Joel Pett was also the recipient of a Robert F. Kennedy Journalism Award in 1999 for cartoons exploring problems of the disadvantaged; he received a Global Media Award for his cartoons about population issues in 1995; and he was president of the Association of American Editorial Cartoonists in 1999;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives congratulates Joel Pett upon being the recipient of the 2000 Pulitzer Prize for editorial cartooning, and we express our praise and admiration to him for the sensitive issues he has illustrated through the years. We wish to him success in all future endeavors.

Section 2. When the House adjourns this day, it does so in honor of Joel Pett upon being the recipient of the 2000 Pulitzer Prize for editorial cartooning.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Joel Pett, Lexington Herald-Leader, 100 Midland Avenue, Lexington, Kentucky 40508.

There being no objection **HR 197** was adopted.

On the roll call to show co-sponsors. (See April 14, 2000, roll call to show co-sponsors-Appendix.)

Report of Committees

A Free Conference Committee Report was filed on **HB 502**.

A Free Conference Committee Report was filed on **HB 576**.

A Free Conference Committee Report was filed on **HB 577**.

A Free Conference Committee Report was filed on **HB 611**.

The Committee on Rules reported that **HR 156, SB 255, SB 394, SCR 111,** and **SJR 114** have been posted for passage in the Orders of the Day.

Representative L. Clark moved the adoption of the following **HR 184**:

HR 184, A RESOLUTION adjourning the House of Representatives in honor of the staff of the Legislative Research Commission.

WHEREAS, the time constraints of a session of the Kentucky General Assembly place an inordinate burden upon not only the members of this chamber, but upon the staff of the Legislative Research Commission as well; and

WHEREAS, the 2000 Regular Session of the General Assembly, like all legislative sessions, has been stressful due to the many emotional and arduous issues that must be considered by this honorable body; and

WHEREAS, the staff of the Legislative Research Commission has maintained its professionalism and objectivity, and has diligently applied complex legislative processes in faithful nonpartisan compliance with House Rules, while functioning under strained and demanding working conditions; and

WHEREAS, the staff of the Legislative Research Commission is composed of dedicated individuals who have worked countless hours, beginning before our arrival in January, to ensure the smooth operation of the General Assembly; and

WHEREAS, the expertise and commitment to excellence of the staff of the Legislative Research Commission is renowned across the nation and makes fulfilling our duties and responsibilities as legislators an easier task;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this honorable body, both individually and collectively, do honor and commend the staff of the Legislative Research Commission for their diligence and dedication to the Kentucky General Assembly.

Section 2. This honorable body does hereby laud the exemplary nonpartisan work of the staff of the Legislative Research Commission during the 2000 session of the Kentucky General Assembly.

Section 3. When the House of Representatives adjourns this day, it does so in honor, praise, and deep appreciation of the staff of the Legislative Research Commission.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to each member of the staff of the Legislative Research Commission.

There being no objection **HR 184** was adopted.

Report On Enrolled Bills (Continued)

HB 209 delivered to the Senate and signed by the President. Delivered to the Governor on April 14, 2000, at 11:40 a.m.

Representative Palumbo moved the adoption of the following **HR 201**:

HR 201, A RESOLUTION adjourning the House of Representatives in honor of the Bryan Station Traditional High School Band.

WHEREAS, the Bryan Station Traditional High School Band, under the direction of Shawn Parrish, is one of the finest high school bands in the Commonwealth of Kentucky; and

WHEREAS, the committee of the Liberty Bowl field competition recognized this sixty-one-member outstanding band by inviting it to compete against several other renowned state high school bands, resulting in Bryan Station Traditional High School Band being named Grand Champions of this prestigious competition; and

WHEREAS, the Bryan Station Traditional High School Band, expressing in eloquent musical and rhythmic testimony the correctness of the committee's choice, did perform in the pre-game show of this nationally televised football game;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby congratulate the Bryan Station Traditional High School Band for their outstanding accomplishment in being named Grand Champions of the Liberty Bowl field competition in Memphis, Tennessee. We wish them success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Bryan Station Traditional High School Band.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Ruth Ann Palumbo for presentation to the Bryan Station Traditional High School Band.

There being no objection **HR 201** was adopted.

Senate Message

Message in regard to **HB 608**: The Senate has adopted the Free Conference Committee Report on **HB 608** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 11:55 a.m.)

Representative Riner moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Riner moved the adoption of the following **HR 191**:

HR 191, A RESOLUTION commending those churches and religious organizations that pray and fast for the leaders of the Commonwealth and the Nation.

WHEREAS, in the preamble to the Kentucky Constitution, the Framers of that important document recognized Almighty

God to be the source of the people's liberties and blessings; and

WHEREAS, George Washington was known as the "praying general" because he knew from personal experience that prayer moved the King of Kings, who in turn, moved the Nations; and

WHEREAS, in his "farewell address" of September 19, 1796, President George Washington declared "of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports;" and

WHEREAS, the Holy Bible specifically directs believers to pray "For Kings, and all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God our Saviour;"

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Churches and believers of all faiths who pray and fast for government leaders are to be highly commended for making a contribution to the Commonwealth which is vastly beyond man's ability to calculate.

Section 2. Churches and believers of all faiths are encouraged to pray regularly for all those "in authority" at the national, state, and local levels of government.

Section 3. Churches and religious organizations are urged to set aside every election day to pray for righteous leadership in the Commonwealth and the Nation, and to insure that special prayer and fasting take place during those hours when the polls are open for voting.

There being no objection **HR 191** was adopted.

On the roll call to show co-sponsors. (See April 14, 2000 roll call to show co-sponsors-Appendix.)

Representative Thomas moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 186**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of William Gladstone Begley II, M.D. and offers its sincerest condolences to the Begley family and to all those who share in the loss of this distinguished citizen. Born in Hazard, Kentucky, he was the beloved husband of Jenna Parker Begley and the cherished father of Ernest Edward Begley II, Virginia Louise Eidson and Joanna Caroline Begley. A graduate of the University of Louisville Medical School, he served as a Lieutenant Commander in the United States Navy and practiced Otolaryngology in Bowling Green, Kentucky from 1968 until his death in August of 1999. He was a former Chief of Staff and Chief of Surgery at both Bowling Green-Warren County Hospital and Greenview Regional Hospital and was past president of the Kentucky Society of Otolaryngology. He will long be remembered for the tireless dedication he demonstrated while working for the health and betterment of his fellow citizens. The esteemed members of this honorable body do solemnly join Speaker Jody Richards in honoring the memory of William Gladstone Begley II for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 186 was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 187**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Dickey Jo Scott and to join with Speaker Jody Richards in expressing profound sympathy to all who share in the loss on the untimely passing of this remarkable young woman, the beloved daughter of Dr. L. Jack and Jo Jean Parker Scott; devoted wife of F. Michael Lynch; loving mother of Clara Isabelle Lynch; cherished sister of Jack Parker Scott and Stephen Winfield Scott; and loving aunt of Emily Caroline Scott. Born in Columbus, Georgia, Ms. Scott graduated from Warren Central High School in 1979, received her bachelors degree from Centre College in 1983 and her masters degree from the Kent School of Social Work in 1998. This deeply loved young woman is remembered this day with gratitude for her remarkable presence, with sorrow for the brevity of her days and with sincere and heartfelt condolences expressed to her family and friends. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 187 was adopted without objection.

Representative Alexander moved the adoption of the following **Legislative Citation No. 159**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Speaker Jody Richards on the occasion of his widely-rumored invitation extended by the Carpenters Union to join their highly-skilled ranks. The members of this honorable body join with Representative Scott Alexander in assuming that this invitation was offered based on

Speaker Richards' extensive experience gained while hammering the gavel during this, the 2000 Session of the Kentucky General Assembly Done in Frankfort, this twenty-ninth day of March, in the year two thousand.

Legislative Citation No. 159 was adopted without objection.

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 183**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Constitutional Pages for demonstrating exemplary interest in the democratic process and the daily actions of the legislature while providing outstanding service as a Constitutional Page in the House of Representatives during the 2000 Regular Session of the Kentucky General Assembly. The members of this august body are delighted to join with Speaker Jody Richards in expressing appreciation to these bright and hard-working young citizens, Brent Boden, Jeshua Caudle, Laura Crittenden, Aisha Maali, Gabe McGaha, Gina Mitchell, Josh Redmon, Rachel Rogers and Morgan Stumbo, for a job well-done and in extending sincere best wishes for their continued success and good fortune. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 183 was adopted without objection.

Orders of the Day

SB 332 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 332** be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See April 14 , 2000 roll call on **SB 332** - Appendix.)

SB 332 was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 332** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 256, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the House Committee Substitute to **SB 256**. Agreed.

Representative Lindsay moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 256**. Agreed.

Representative Lindsay moved that **SB 256**, by way of House Committee Substitute as amended, be passed.

Representative Geveden moved that the rules be suspended to act upon House Floor Amendment No. 2 to **SB 256**.

On the roll call the vote was: **Yeas 76, Nays 7**. (See April 14, 2000 roll call on the motion that the rules be suspended to act upon House Floor Amendment No. 2 to **SB 256** - Appendix.)

The motion that the rules be suspended to act upon House Floor Amendment No. 2 to **SB 256** was adopted.

Representative Geveden moved the adoption of House Floor Amendment No. 2 to **SB 256**.

Representative Hoover inquired if House Floor Amendment No. 2 to **SB 256** was germane.

Representative Geveden moved that House Floor Amendment No. 2 to **SB 256** be withdrawn. Agreed.

Representative Lindsay moved that **SB 256**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See April 14, 2000 roll call on **SB 256** - Appendix.)

SB 256, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 256**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 1, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that the rules be suspended to act upon House Floor Amendment No. 8 to **SB 1**.

On the roll call the vote was: **Yeas 67, Nays 11**. (See April 14, 2000 roll call on the motion that the rules be suspended to act upon House Floor Amendment No. 8 to **SB 1** - Appendix.)

The motion that the rules be suspended to act upon House Floor Amendment No. 8 to **SB 1** was adopted.

Representative Siler moved the adoption of Floor Amendment No. 8 to **SB 1**. Agreed.

Representative Siler moved that **SB 1**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See April 14, 2000 roll call on **SB 1** - Appendix.)

SB 1, as amended, was passed and the title agreed to.

Representative Siler moved that the vote by which **SB 1**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to reconsider the co-sponsor vote on **Legislative Citation 180**.

On the roll call to suspend the rules to reconsider the vote to show co-sponsors the vote was: **Yeas 92, Nays 2**. (See April 14, 2000 on the motion that the rules be suspended to reconsider the co-sponsor vote-Appendix.)

The motion to suspend the rules to reconsider the vote to show co-sponsors on **Legislative Citation 180** was agreed to.

Representative Stumbo moved to reconsider the vote to co-sponsor **Legislative Citation 180**.

On the roll call to show co-sponsors. (See April 14, 2000 on the roll call to show co-sponsors-Appendix.)

Representative Stumbo moved that **SB 224, SB 260, SB 261, SB 317,** and **SB 398** be recommitted to the Committee on Appropriations and Revenue. Agreed.

SB 335 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 335** be passed.

On the roll call the vote was: **Yeas 50, Nays 38**. (See April 14 , 2000 roll call on **SB 335** - Appendix.)

SB 335 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 335** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 583, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 583** is as follows:

HB 583, AN ACT relating to proceeds from the Tobacco Master Settlement Agreement, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.654 is amended to read as follows:

There is established in the State Treasury a permanent and perpetual fund to be known as the "Tobacco Settlement Agreement Fund" to which shall be credited any funds designated to the Commonwealth from the ***master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states***[~~tobacco settlement agreement~~] or related federal legislation. ***All investment income earned from moneys deposited in the fund prior to the effective date of this Act and after the effective date of this Act shall accrue to the fund.*** Any funds designated to the Commonwealth from the settlement agreement or related federal legislation ***and all investment income accruing to the fund*** shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco farmers and tobacco-impacted communities and health-related areas. ***Moneys in the fund, including all investment income accruing to the fund, shall be distributed within twenty (20) days of the effective date of this***

Act and within twenty (20) days of receipt of any moneys deposited to the fund after the effective date of this Act as follows:

(1) Fifty percent (50%) to the rural development fund created in Section 2 of this Act;

(2) Twenty-five percent (25%) to the early childhood development fund created in Section 3 of this Act; and

(3) Twenty-five percent (25%) to the Kentucky health care improvement fund created in Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Rural Development Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve and promote agricultural development for residents of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the chair of the rural development board. Before and after July 1, 2000, fifty percent (50%) of the proceeds in the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act. All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. The board shall develop and oversee the implementation of a strategic plan. The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals, and it shall be updated every two (2) years. The board shall submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year for the preceeding fiscal year, outlining its activities and expenditures. The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Early Childhood Development Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve and promote early childhood development for children of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the chair of the early childhood development board. Beginning July 1, 2000, twenty-five percent (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act. All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. The board shall develop and oversee the implementation of a strategic plan. The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals, and it shall be updated every two (2) years. The board shall submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year for the preceeding fiscal year, outlining its activities and expenditures. The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Kentucky Health Care Improvement Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve health care and access to health insurance residents of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasury upon the warrant of the secretary of the Cabinet for Health Services. Beginning July 1, 2000, twenty-five percent (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act. All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. The board shall develop and oversee the implementation of a strategic plan. The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals, and it shall be updated every two (2) years. The board shall submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year for the preceeding fiscal year, outlining its activities and expenditures. The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The "Lung Cancer Research Fund" is created and shall receive funds each year from the Kentucky Health Care Improvement Fund. The lung cancer research fund shall be used to finance the Lung Cancer Research Project described in subsection (5) of this section. No revenues from the lung cancer research fund shall be allocated until the board has adopted the strategic plan described in subsections (5) and (6) of this section.

(2) A research consortium between the University of Kentucky and the University of Louisville is created and shall be known as the Governance Board of the Lung Cancer Research Project. The consortium shall be attached to the Council on Postsecondary Education for administrative purposes.

(3) The board shall consist of nine (9) members appointed by the Governor as follows:

- ***(a) Two (2) members shall be from the faculty of the School of Medicine at the University of Kentucky;***
- ***(b) Two (2) members shall be from the faculty of the School of Medicine at the University of Louisville;***
- ***(c) Two (2) members shall be from the Council on Postsecondary Education; and***
- ***(d) Three (3) members shall be from the state at large, one (1) of whom shall be appointed chair by the Governor.***

(4) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

- ***(a) Two (2) members shall be appointed for one (1) year;***
- ***(b) Two (2) members shall be appointed for two (2) years;***
- ***(c) Two (2) members shall be appointed for three (3) years; and***
- ***(d) Three (3) members shall be appointed for four (4) years.***

(5) The Governance Board of the Lung Cancer Research Project shall develop and oversee the implementation of a twenty (20) year strategic plan that utilizes the resources of both the University of Louisville and the University of Kentucky in establishing the Lung Cancer Research Project. The Lung Cancer Research Project shall be a joint program to:

- ***(a) Develop an expertise in the area of lung cancer research with an immediate focus on early detection and epidemiology and with an ultimate goal of eradication of lung cancer;***
- ***(b) Establish a statewide clinical trial network to make university-based clinical trials available to the community physician in order to bring the most innovative cancer treatments to all Kentuckians in need of these treatments;***
- ***(c) Leverage the resources earmarked for the Lung Cancer Research Project toward the certification of the cancer program at the University of Kentucky and the University of Louisville by the National Cancer Institute as a cancer center; and***
- ***(d) Undertake other initiatives consistent with the strategic plan.***

(6) The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals; it shall be updated every two (2) years.

(7) The Governance Board of the Lung Cancer Research Project shall submit an annual report to the Governor and the Legislative Research Commission by September 1 each year for the preceding fiscal year, outlining its activities and expenditures.

(8) The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the lung cancer research fund and, if necessary in the opinion of the Auditor, the operations of the Lung Cancer Research Project and the lung cancer research fund.

Section 6. Fifty percent of the proceeds of the tobacco settlement agreement fund on the effective date of this Act, and of any additions thereto prior to July 1, 2000, shall be deposited in the rural development fund established by Section 2 of this Act for the purpose set forth in that section for that fund.

Section 7. Whereas the Commonwealth's next fiscal year begins on July 1 and the General Assembly finds that it is critical that the provisions of this Act take effect prior to the beginning of the new fiscal year, an emergency is declared to exist and this Act takes effect its passage and approval by the Governor or upon its otherwise becoming a law.

Representative Barrows moved that the House concur in the Senate Committee Substitute to **HB 583**. Agreed.

Representative Barrows moved that **HB 583**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See April 14, 2000 roll call on **HB 583** - Appendix.)

HB 583, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 583**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 572, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 2 to **HB 572** is as follows:

On page 2, line 22, by deleting "*and 19*" and inserting in lieu thereof "*19, and 20*"; and

On page 5, line 27, by deleting "*21*" and inserting in lieu thereof "*22*"; and

On page 7, line 19, by deleting "*, except that any*" and inserting in lieu thereof "*. Any*"; and

On page 11, line 22, by deleting "154" and inserting in lieu thereof "164"; and

On page 23, after line 16, by inserting the following:

"SECTION 20. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in Section 1 of this Act.

(2) There is established the Office of the Commissioner for the New Economy in the Cabinet for Economic Development. Notwithstanding KRS 154.10-050, the Governor shall nominate the commissioner, who shall be approved by the Kentucky Economic Development Partnership.

(3) The duties of the Office of the Commissioner for the New Economy shall include but not be limited to:

(a) Undertake a strategic technology capacity initiative under Section 18 of this Act;

(b) Develop a knowledge-based economy strategy to be presented to the Kentucky Economic Development Partnership and the Kentucky Innovation Commission in Section 18 of this Act;

(c) Oversee the modernization initiative in Section 19 of this Act;

(d) Assist the cabinet in the recruitment of research and development companies;

(e) Assist the cabinet in the attraction of high-technology research and development centers;

(f) Support growth and creation of knowledge-based, innovative companies;

(g) Build and promote networks of technology-driven clusters and research intensive industries;

(h) Administer the high-tech construction pool and the high-tech investment pool; and

(i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool.

(4) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The commissioner, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The commissioner shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.

(5) The high-tech investment pool shall be used to build and promote networks to technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The commissioner, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity position in industrial networks.

(6) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section."

On page 23, line 17, by deleting "20" and inserting in lieu thereof "21", and by renumbering subsequent sections to conform.

Representative Geveden moved that the House concur in Senate Committee Amendment No. 2 to **HB 572**. Agreed.

Representative Geveden moved that **HB 572**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See April 14, 1998 roll call on **HB 572** - Appendix.)

HB 572, as amended by the Senate, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 572**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 541, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 541** is as follows:

On page 12, line 21, by deleting "1994" and inserting "1995".

Representative Moberly moved that the House concur in Senate Committee Amendment No. 1 to **HB 541**. Agreed.

Representative Moberly moved that **HB 541**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 79, Nays 13**. (See April 14, 1998 roll call on **HB 541** - Appendix.)

HB 541, as amended by the Senate, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 541**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended and that **SB 394** be placed in the Orders of the Day. Agreed.

Representative Stumbo moved that **HR 156, SB 255, SCR 111, SJR 114, HB 70, HB 130, HB 856,** and **HB 946** be recommitted to the Committee on Rules. Agreed.

On the roll call the vote was: **Yeas 34, Nays 48**. (See April 14, 2000 roll call on the motion that **HR 156, SB 255, SCR 111, SJR 114, HB 70, HB 130, HB 856,** and **HB 946** be recommitted to the Committee on Rules-Appendix.)

The motion that **HR 156, SB 255, SCR 111, SJR 114, HB 70, HB 130, HB 856,** and **HB 946** be recommitted to the Committee on Rules was defeated.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 2:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 34** and **SB 58** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:45 p.m.)

Orders of the Day (Continued)

HB 996, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 996** is as follows:

HB 996, AN ACT relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under Section 2 of this Act and subject to license tax under KRS 136.070;

(b) "Economic revitalization project" shall have the same meaning as set forth in Section 2 of this Act; and

(c) "Tax credit" means the tax credit allowed in subsection (1)(b)2. of Section 3 of this Act.

(2) An approved company shall:

(a) Compute the company's total license tax due as provided by KRS 136.070; and

(b) Compute the license tax due excluding the capital attributable to an economic revitalization project.

(3) The tax credit shall be the amount by which the tax computed under subsection (2)(a) of this section exceeds the tax computed under subsection (2)(b) of this section; however, the credit shall not exceed the limits set forth in Section 3 of this Act.

(4) The capital attributable to an economic revitalization project shall be determined by a formula approved by the Revenue Cabinet.

(5) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an

approved company may retain under KRS 154.26-010 to 154.26-100.

Section 2. KRS 154.26-010 is amended to read as follows:

As used in KRS 154.26-015 to 154.26-100, unless the context clearly indicates otherwise:

(1) "Agreement" means a revitalization agreement entered into, pursuant to KRS 154.26-090, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(3) "Appropriation agreement" means an agreement entered into, pursuant to KRS 154.26-090(1)(d)2.b., among the approved company, the authority, and local governmental entities with respect to appropriations by these local governmental entities for the benefit of the approved company;

(4) "Approved company" means any eligible company approved by the authority pursuant to KRS 154.26-080 requiring an economic revitalization project;

(5) "Approved costs" means:

  (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

  (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

  (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

  (d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

  (e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

  (f) All other costs comparable with those described above;

(6) "Assessment" means the job revitalization assessment fee authorized by KRS 154.26-100;

(7) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(8) "Commonwealth" means the Commonwealth of Kentucky;

(9) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;

(10) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity employing or intending to employ full-time a minimum of twenty-five (25) persons engaged in manufacturing or agribusiness operations at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing or agribusiness operations has been temporarily suspended and which meets the standards promulgated by the authority pursuant to KRS 154.26-080;

(11) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;

(12) "Inducements" means the Kentucky[~~ income~~] tax credit and the job revitalization assessment fee as prescribed in KRS 154.26-090 and 154.26-100;

(13) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities;

(14) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter; and

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

Section 3. KRS 154.26-090 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into, with any approved company, an agreement with respect to its project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant;

(b) In consideration of the execution of the agreement, the approved company may be permitted during the time not to exceed ten (10) years during which the agreement is in effect, which time shall commence on the date of the agreement for purposes of the inducements:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic revitalization project as determined under KRS 141.403;[~~ plus~~]

2. ***A credit against the Kentucky license tax imposed by KRS 136.070 on the capital of the approved company generated by or arising out of the economic revitalization project as determined under Section 1 of this Act; plus***

3. The aggregate assessment withheld by the approved company in each year;

(c) The[~~ income~~] tax credit allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or fifty percent (50%) of the approved cost that has not yet been recovered, which fifty percent (50%) shall be reduced by any recovery through the collection of assessments and appropriations made under any appropriation agreement. The credit shall be allowed for each fiscal year of the approved company during the term of the agreement and for which a tax return of the approved company is filed until the entire fifty percent (50%) of the approved cost has been received through a combination of credits, assessments, if assessments are elected to be imposed, and appropriations made under any appropriation agreement. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state[~~ income~~] tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section;

(d) The agreement shall provide that:

1. The term shall not be longer than the earlier of:

a. The date on which the approved company has received inducements or withholds assessments equal to fifty percent (50%) of the approved costs of its economic revitalization project; or

b. Ten (10) years from the date of the execution of the agreement.

2. Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

a. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

b. In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the assessment imposed upon the employees shall be credited against the local occupational license fee and shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees for such employees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed by or dedicated solely to a local board of education.

3. If in any fiscal year of the approved company during which the agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds fifty percent (50%) of the approved costs then expended, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the agreement is in effect the assessment collected from the wages of the employees exceeds fifty percent (50%) of the approved costs then expended, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(e) All proceeds of any loan or other financing incurred in connection with the economic revitalization project shall be expended by the approved company within five (5) years from the date of the revitalization agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic revitalization project are not fully expended within the five (5) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the five (5) year period.

(2) If the approved company elects to utilize the assessment as prescribed in KRS 154.26-100, a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.

(3) If the approved company elects to utilize the assessment, neither the appropriation agreement, if it is so used, nor the agreement shall be executed unless the assessment is approved by a majority of the employees voting. If the approved company elects not to utilize the assessment, no employee vote shall be required for the execution of the agreement.

(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company.

(5) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed.

(6) Neither the appropriation agreement nor the agreement shall be transferable or assignable by the approved company without the expressed written consent of the authority.

Section 4. KRS 154.26-100 is amended to read as follows:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment, not to exceed, during any fiscal year of the approved company, six percent (6%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project. However, if the appropriation agreement is consummated, the assessment shall be five percent (5%) of each employee's gross wages subject to the income tax imposed by KRS 141.020.

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to two-thirds (2/3) of the assessment; or if the appropriation agreement is consummated, the credit shall be equal to four-fifths (4/5) of the assessment.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-sixth (1/6) of the assessment, unless the appropriation agreement is consummated.

(4) If an approved company shall elect to impose the assessment as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsections (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall permanently lapse upon expiration or termination of the agreement.

(7) Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet shall certify to the authority the Kentucky[~~ income~~] tax liability for the preceding fiscal year of the approved company for which the return was filed of each approved company with respect to an economic development project financed through the issuance of bonds, loans, or other financing incurred in connection with the economic development project and the amounts of any tax

credits and job revitalization assessment fees taken pursuant to KRS 154.26-010, 154.26-080, 154.26-090, and this section.

Section 5. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser***; or***

(d) Any charge for bundled transactions, where goods and services are sold as a single package for one (1) price.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17);

(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243***;***

(h) Amounts received for communications services utilized in providing a prepaid calling arrangement as defined in Section 7 of this Act.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 6. KRS 139.100 is amended to read as follows:

(1) "Retail sale" or "sale at retail" means:

(a) 1. A sale for any purpose other than resale in the regular course of business of tangible personal property, or

2. The furnishing of the facilities and services mentioned in subsection (2) of this section;

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;

(b) The furnishing of sewer services~~[and intrastate telephonic and telegraphic communications and services]~~;

(c) The sale of admissions, except, those taxed under KRS 138.480*;*

(d) The furnishing of communications services to a service address in this state, regardless of where those services are billed or paid, when the communications service:

1. Originates and terminates in this state;

2. Originates in this state; or

3. Terminates in this state.

(3) For the purposes of this chapter "communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics, or any similar medium or method now in existence or later devised. Communications service includes, but is not limited to, local telephone services, long-distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile communications service, and Internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, Internet protocol, or other similar means. Communications service does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:

(a) Information services;

(b) Internet access;

(c) Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. However, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;

(d) The sale of directory and other advertising and listing services;

(e) The sale of one-way paging services;

(f) Billing and collection services provided to another communications service provider; or

(g) Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the Federal Cable Act of 1996.

(4) For the purposes of this chapter, "service address" means:

(a) The location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems, third number and calling card calls, service address means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;

(b) In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and

(c) In the case of mobile communications service provided under intercarrier roaming agreements, the service address shall be deemed to be the physical location of the serving carrier's switch that originates or terminates the call.

Section 7. KRS 139.160 is amended to read as follows:

"Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses and includes natural, artificial and mixed gas, electricity*,*~~[and]~~ water*, and prepaid calling arrangements. For the purposes of this chapter, the term "prepaid calling arrangements" means any right to purchase communications service, which must be paid in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed. Prepaid calling arrangement includes, but is not limited to, prepaid cards and prepaid accounts which are decremented as calls take place*.

SECTION 8. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of this section, "gross receipts" means:

(a) Sales of tangible personal property in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; and

(b) Sales other than sales of tangible personal property in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on cost of performance, or gross receipt allocation method as provided by statute and elected by the taxpayer.

(2) Any business whose communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent (5%) of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit. The refundable credit shall be equal to the sales tax paid on the difference by which the communications service purchased by the business exceeds five percent (5%) of the business's Kentucky gross receipts.

(3) Any business that qualifies for the refundable credit authorized by subsection (2) of this section shall make an annual application for the refund on or after June 1, 2002, and on or after every June 1 thereafter. The application shall be made to the cabinet on forms as the cabinet may prescribe and shall contain any information deemed necessary for the cabinet to determine the business's eligibility to receive a refund.

(4) Notwithstanding the provisions of KRS 134.580 to the contrary, the cabinet, upon receipt of a properly documented refund application, shall cause a timely refund to be made directly to the business. Interest shall not be allowed or paid on any refund made under this section.

(5) Any refund application submitted under this section is subject to examination by the cabinet. The examination shall occur within four (4) years from the date the refund application is received by the cabinet. Any overpayment resulting from the examination shall be repaid to the State Treasury. In addition, the amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.

(6) If a business owns directly or indirectly fifty percent (50%) or more of another business, the credit computed under subsection (2) of this section shall be computed on a combined basis, excluding any intercompany Kentucky gross receipts.

Section 9. KRS 139.510 is amended to read as follows:

(1) The tax levied by KRS 139.310 shall not apply with respect to the storage, use or other consumption of tangible personal property in this state upon which a tax substantially identical to the tax levied under KRS 139.200 (not including any special excise taxes such as are imposed on alcoholic beverages, cigarettes and the like) equal to or greater than the amount of tax imposed by KRS 139.310 has been paid in another state. Proof of payment of such tax shall be according to rules and regulations of the cabinet. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the cabinet an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state.

(2) To prevent actual multistate taxation of a communications service subject to taxation under this chapter, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communication services, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of the tax legally paid in the other state.

Section 10. KRS 341.270 is amended to read as follows:

(1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).

(2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.

(3) For the calendar year *2001*[~~1999~~] and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of December 31 of the preceding year. If *the*[~~such~~]

"trust fund balance":

(a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect.

(b) Equals or exceeds three hundred fifty million dollars ($350,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect.

(c) Equals or exceeds two hundred seventy-five million dollars ($275,000,000) but is less than three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect.

(d) Equals or exceeds two hundred fifty million dollars ($250,000,000) but is less than two hundred seventy-five million dollars ($275,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect.

(e) Equals or exceeds one hundred fifty million dollars ($150,000,000) but is less than two hundred fifty million dollars ($250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect.

(f) Is less than one hundred fifty million dollars ($150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.

(4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to ***the***~~[such]~~ calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Rate Schedule

Employer Reserve Ratio	Trust Fund Adequacy Rates	A	B	C	D	E
8.0% and over	***0.000%*** ~~[0.157%]~~	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	***0.000%***~~[0.257%]~~	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	***0.008%***~~[0.357%]~~	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	***0.208%***~~[0.557%]~~	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	***0.508%***~~[0.857%]~~	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	***0.808%***~~[1.157%]~~	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	***1.008%***~~[1.357%]~~	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	***1.308%***~~[1.657%]~~	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	***1.508%***~~[1.857%]~~	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	***1.608%***~~[1.957%]~~	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	***1.708%***~~[2.057%]~~	2.20%	2.50%	2.70%	2.90%	3.30%

1.3% but under 2.0%	***1.808%***~~[2.157%]~~	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	***1.908%***~~[2.257%]~~	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
Less than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the department ***on that***~~[as of such]~~ date shall be considered as being in the fund on ***that***~~[such]~~ date.

(b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers.

(c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of September 30 immediately preceding the computation date.

(d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through September 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to ***the***~~[such]~~ account, ***the***~~[such]~~ account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(e) "Computation date" is October 31 of each calendar year prior to the effective date of new rates of contributions.

Section 11. KRS 341.380 is amended to read as follows:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the secretary. Claims for all payments of benefits shall be made in accordance with regulations of the secretary.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one and one hundred eighty-five one-thousandths percent (1.185%) of his total base-period wages, except that no worker's weekly benefit amount shall be less than thirty-nine dollars ($39), nor more than the maximum rate as determined in accordance with subsection (3) of this section. For claims effective on or after January 1, ***2001***~~[1999]~~, the weekly benefit rate shall, except as provided in KRS 341.390, be ***one and three thousand seventy-eight ten thousandths percent (1.3078%)***~~[one and two hundred thirty-five thousandths percent (1.235%)]~~ of his total base-period wages, except that no worker's weekly benefit amount shall be less than thirty-nine dollars ($39) nor more than the maximum rate as determined in accordance with subsection (3) of this section~~[; provided, however, that the tax rate schedule prescribed in KRS 341.270(3)(a) is in effect in that year. If that rate schedule is not in effect in calendar year 1999 but takes effect in a subsequent calendar year, the increase in the weekly benefit rate calculation shall apply to claims effective on or after January 1 of the year in which that rate schedule is in effect]~~.

(3) Prior to the first day of July of each year the secretary shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve (12), into the total wages reported by such employers for such calendar year and dividing by fifty-two (52). Fifty-five percent (55%) of the amount thus obtained, adjusted to the nearest multiple of one dollar ($1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year; beginning in calendar year 1999, or any subsequent year in which the increase in the weekly benefit rate calculation set forth in subsection (2) of this section should take effect, sixty-two percent (62%) of the average weekly wage, adjusted to the nearest multiple of one dollar ($1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of that year and prior to the first day of July of the next following year; except that for the benefit years beginning on or after July 1, 1982, if the "trust fund balance" as of December 31 immediately preceding the benefit year is less than one hundred twenty million dollars ($120,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate. If such "trust fund balance" as of December 31 immediately preceding the benefit year:

(a) Equals or exceeds one hundred twenty million dollars ($120,000,000), but is less than one hundred fifty million dollars ($150,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than six percent (6%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1);

(b) Equals or exceeds one hundred fifty million dollars ($150,000,000), but is less than two hundred fifty million dollars ($250,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than eight percent (8%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1);

(c) Equals or exceeds two hundred fifty million dollars ($250,000,000), but is less than two hundred seventy-five million dollars ($275,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than ten percent (10%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1);

(d) Equals or exceeds two hundred seventy-five million dollars ($275,000,000), but is less than three hundred fifty million dollars ($350,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than twelve percent (12%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1); and

(e) Is such that it resulted in the establishment of an employer contribution rate schedule, as provided for in KRS 341.270, for the current calendar year which has a higher minimum rate than the schedule in effect for the immediately preceding calendar year, the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of:

(a) Twenty-six (26) times his weekly benefit rate; or

(b) One-third (1/3) of his base-period wages, except that no worker's maximum amount shall be less than fifteen (15) times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar ($1), shall be adjusted to the nearest multiple of one dollar ($1).

Section 12. KRS 341.510 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and except ***the***~~[such]~~ money as has been credited to the account of this state in the unemployment trust fund under the provisions of Section 903 of the Social Security Act as amended, and appropriated by legislative action authorized thereunder for administrative expenses, money shall be requisitioned from the state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the secretary. The secretary, through the State Treasurer acting as his fiscal agent, shall from time to time requisition from the unemployment trust fund ***the***~~[such]~~ amounts not exceeding the amounts standing to this state's accounts therein, as he considers necessary for the payment of benefits for a reasonable future period.

(2) The Governor may, at any time, pursuant to Section 1202 of the Social Security Act, request that funds be transferred from this state's account in the unemployment trust fund for repayment of part or all of that balance of advances made to the state under Section 1201 of the Social Security Act.

(3) Upon receipt thereof the Treasurer shall deposit ***the***~~[such]~~ money in the benefit account and shall issue his vouchers for the payment of benefits solely from ***the***~~[such]~~ benefit account. Expenditures of ***the***~~[such]~~ money in the benefit account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All vouchers issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the approval in writing of the secretary of the Finance and Administration Cabinet.

(4) Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit

account after the expiration of the period for which *the*~~[such]~~ sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the secretary, shall be redeposited with the secretary of the federal Treasury to the credit of this state's account in the unemployment trust fund, as provided in KRS 341.500.

(5) Notwithstanding the provisions of subsection (1) of this section to the contrary, money credited to the state under Section 903 of the Social Security Act, as amended with respect to federal fiscal years 1999, 2000, and 2001, shall be used solely for the administration of the unemployment insurance program and not subject to appropriation by the General Assembly.

Section 13. Sections 1 to 4 of this Act shall apply for taxable years beginning on or after December 31, 1999.

Section 14. Sections 5 to 9 of this Act shall be effective January 1, 2001.

Representative Stumbo moved that the House concur in the Senate Committee Substitute to **HB 996**. Agreed.

Representative Stumbo moved that **HB 996**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 58, Nays 36**. (See April 14, 2000 roll call on **HB 996** - Appendix.)

HB 996, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 996**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 608 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Palmer moved the adoption of the following Free Conference Committee Report on **HB 608**. Agreed.

The Free Conference Committee on **HB 608** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **HB 608** as amended by the Senate Committee Substitute and Senate Floor Amendment Nos. 4, 6, 7, 8, and 9 with the following changes:

On page 31, line 11, by deleting "cover" and inserting in lieu thereof "include, but are not limited to, coverage for"; and

On page 34, by deleting line 9 through page 35, line 13 and inserting in lieu thereof:

"Section 15. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.

(4) It is an unfair trade practice for an insurer that offers multiple health benefit plans to require a health care provider, as a condition of participation in a health benefit plan of the insurer, to participate in any of the insurer's other health benefit plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract provision violating this subsection is void.

(5) It is an unfair trade practice for an insurer not to compute an insured's coinsurance or cost sharing on the basis of the amount actually received by a health-care provider from the insurer.

(6)[(5)]The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under KRS 304.17A-470. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(7)[(6)]The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by this section.

(8) It is an unfair claims settlement practice for any person to make claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made in instances in which the insured has a liability under the policy beyond his or her copayment or deductible."; and

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may delay payment by contesting a clean claim only in the following instances:

(a) The insurer has information that another insurer is primarily responsible for the claim;

(b) The insurer will conduct a retrospective review of the services identified on the claim;

(c) The insurer has information that the claim was submitted fraudulently; or

(d) The covered person's or group's premium has not been paid.

(2) (a) If an insurer routinely requires a provider to submit attachments to the claim containing additional medical information summarizing the diagnosis, the treatment, or services rendered to the covered person before the claim will be paid, the insurer shall identify the specific routinely required information in its provider manual or other document that sets forth the procedure for filing claims with the insurer. The insurer shall provide sixty (60) days' advance written notice of modifications to the provider manual that materially change the type or content of the attachments to be submitted;

(b) If a provider submits a clean claim with the required attachments as specified in the provider manual or other document that sets forth the procedure for filing claims with the insurer, the insurer shall pay or deny the claim within the required claims payment time frame established in this subtitle; and

(c) If an insurer conducts a retrospective review of a claim and requires an attachment not specified in the provider manual or other document that sets forth the procedure for filing claims, the insurer shall:

1. Notify the provider, in writing or electronically within the claims payment time frame established in this subtitle, of the service that will be retrospectively reviewed and the specific information needed from the provider regarding the insurer's review of a claim;

2. Complete the retrospective review within twenty (20) business days of the insurer's receipt of the medical information described in this subsection; and

3. Add interest to the amount of the claim to be paid at a rate of twelve percent (12%) per annum, or at a rate in accordance with this subtitle accruing from the thirty-first day after the claim was received by the insurer through the date upon which the claim is paid.

(3) (a) If a claim or portion thereof is contested by an insurer on the basis that the insurer has not received information reasonably necessary to determine insurer liability for the claim or portion thereof, the insurer shall, within the applicable claims payment time frame established in this subtitle, provide written or electronic notice to the provider, covered person, or insurer, as appropriate, with an itemization of all new, never-before-provided information that is needed; and

(b) The insurer shall pay or deny the claims within thirty (30) calendar days of receiving the additional information described in paragraph (a) of this subsection.

Section 17. KRS 304.17A-545, as amended by House Bill 525 of the 2000 Regular Session, if that bill becomes law, is further amended to read as follows:

(1) A managed care plan shall appoint a medical director who:

(a) Is a physician licensed to practice in this state;

(b) Is in good standing with the State Board of Medical Licensure;

(c) Has not had his or her license revoked or suspended, under KRS 311.530 to 311.620;

(d) Shall sign any denial letter required under KRS 304.17A-540[decision to deny any health care benefit]; and

(e) Shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service because that service is not medically necessary shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice."

Section 18. KRS 507.040 is amended to read as follows:

(1) A person is guilty of manslaughter in the second degree when[, including, but not limited to, the operation of a motor vehicle,] he wantonly causes the death of another person, including, but not limited to, situations where the death results from the person's:

(a) Operation of a motor vehicle; or

(b) Leaving a child under the age of eight (8) years in a motor vehicle under circumstances which manifest an extreme indifference to human life and which create a grave risk of death to the child, thereby causing the death of the child.

(2) Manslaughter in the second degree is a Class C felony.

Section 19. KRS 165.160 is amended to read as follows:

(1) Cities of the second, third, and fourth classes[class] may establish or acquire by lawful conveyance municipal colleges for the purpose of promoting public education. A college in a city of the second, third, or fourth class shall not constitute a municipal college or receive support as provided in KRS 165.170 to 165.190 unless it is controlled by a board of trustees

appointed by the mayor and legislative body of the city, and unless its principal work is the maintenance of courses affording instruction in such arts, sciences and professions and conferring such certificates of attainment as are authorized by other similar institutions of learning above the high school grade. No advisory board shall be appointed for any college established pursuant to the provisions of this section, and the board of trustees of the college shall perform the functions of an advisory board in addition to its other functions.

(2) If the college is supported by a municipal college support district, three (3) members of the board of trustees mentioned in subsection (1) shall be appointed by the governing body of the district.

Section 20. KRS 165.165 is amended to read as follows:

The legislative body of a city of the second, third, or fourth class in which a municipal college or junior college exists under the provisions of KRS 165.160 to 165.260 may, for educational purposes, use and employ all the authority contained in KRS 165.080 to 165.140 and 162.340 to 162.380 to issue bonds for the benefit of such college.

Section 21. KRS 165.180 is amended to read as follows:

Any city of the second, third, or fourth class having a municipal college may devote to college purposes any funds or properties derived from sources other than taxes levied for special purposes.

Section 22. KRS 165.190 is amended to read as follows:

The legislative body of any city of the second, third, or fourth class may appropriate as a site for the buildings and grounds for a municipal college any public grounds of the city not especially appropriated or dedicated to any other use.

Section 23. KRS 165.195 is amended to read as follows:

The board of trustees of a municipal college in a city of the second, third, or fourth class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the college, and when unable to agree with the owner of land and improvements necessary for the purposes of the college may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in the Eminent Domain Act of Kentucky.

SECTION 24. A NEW SECTION OF KRS CHAPTER 165 IS CREATED TO READ AS FOLLOWS:

It shall a public purpose for a city of any class to support postsecondary education through the appropriation of funds for postsecondary educational facilities located or to be located within the city and for postsecondary educational programs offered within the city. Nothing in Sections 19 to 24 of this Act shall create an obligation or liability for the Council on Postsecondary Education.

SECTION 25. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The "Lung Cancer Research Fund" is created and shall receive funds each year from the tobacco settlement agreement fund created in KRS 248.654 in the amount specified in subsection (5)(b) of Section 2 of House Bill 517 as enacted at the 2000 Regular Session of the General Assembly. The lung cancer research fund shall be used to finance the Lung Cancer Research Project described in subsection (5) of this section. No revenues from the lung cancer research fund shall be allocated until the board has adopted the strategic plan described in subsections (5) and (6) of this section.

(2) A research consortium between the University of Kentucky and the University of Louisville is created and shall be known as the Governance Board of the Lung Cancer Research Project. The consortium shall be attached to the Council on Postsecondary Education for administrative purposes.

(3) The board shall consist of nine (9) members appointed by the Governor as follows:

(a) Two (2) members shall be from the faculty of the School of Medicine at the University of Kentucky;

(b) Two (2) members shall be from the faculty of the School of Medicine at the University of Louisville;

(c) Two (2) members shall be from the Council on Postsecondary Education; and

(d) Three (3) members shall be from the state at large, one (1) of whom shall be appointed chair by the Governor.

(4) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

(a) Two (2) members shall be appointed for one (1) year;

(b) Two (2) members shall be appointed for two (2) years;

(c) Two (2) members shall be appointed for three (3) years; and

(d) Three (3) members shall be appointed for four (4) years.

(5) The Governance Board of the Lung Cancer Research Project shall develop and oversee the implementation of a twenty (20) year strategic plan that utilizes the resources of both the University of Louisville and the University of Kentucky in establishing the Lung Cancer Research Project. The Lung Cancer Research Project shall be a joint program to:

(a) Develop an expertise in the area of lung cancer research with an immediate focus on early detection and epidemiology and with an ultimate goal of eradication of lung cancer;

(b) Establish a statewide clinical trial network to make university-based clinical trials available to the community physician in order to bring the most innovative cancer treatments to all Kentuckians in need of these treatments;

(c) Leverage the resources earmarked for the Lung Cancer Research Project toward the certification of the cancer program at the University of Kentucky and the University of Louisville by the National Cancer Institute as a cancer center; and

(d) Undertake other initiatives consistent with the strategic plan.

(6) The strategic plan shall identify both short-term and long-term goals and the appropriate oversights to measure progress toward achievement of those goals; it shall be updated every two (2) years.

(7) The Governance Board of the Lung Cancer Research Project shall submit an annual report to the Governor and the Legislative Research Commission by September 1 each year for the preceding fiscal year, outlining its activities and expenditures.

(8) The Auditor of Public Accounts, on an annual basis, shall conduct a thorough review of all expenditures from the lung cancer research fund and, if necessary in the opinion of the Auditor, the operations of the Lung Cancer Research Project and the lung cancer research fund."; and

On page 35, line 14, by renumbering the final section accordingly.

The Free Conference Committee amended the title to read as follows:

"AN ACT relating to the public good."

Signed: April 11, 2000 - Representatives Palmer, Damron, and Crimm; Senators Shaughnessy, Guthrie, and Rose. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Palmer moved that **HB 608**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See April 14, 2000 roll call on **HB 608** - Appendix.)

HB 608, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Palmer moved that the vote by which **HB 608**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 409, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the House Committee Substitute to **SB 409**. Agreed.

Representative Palmer moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 409**. Agreed.

Representative Palmer moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SB 409**. Agreed.

Representative Barrows moved the adoption of House Floor Amendment No. 10 to the House Committee Substitute to **SB 409**.

On the roll call the vote was: **Yeas 20, Nays 73**. (See April 14, 2000 roll call on the adoption of House Floor Amendment No. 10 to the House Committee Substitute to **SB 409**-Appendix.)

House Floor Amendment No. 10 to the House Committee Substitute to **SB 409** was defeated.

Representative Stumbo moved that **SB 409**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 3**. (See April 14, 2000 roll call on **SB 409** - Appendix.)

SB 409, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 409**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 313, with House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of House Committee Amendment No. 1 to **SB 313**. Agreed.

Representative Gooch moved that **SB 313**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See April 14, 2000 roll call on **SB 313** - Appendix.)

SB 313, as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **SB 313**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 541, HB 572,** and **HB 583** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:27 p.m.)

Representative Stumbo moved that the rules be suspended for the Clerk to report a veto message. Agreed.

Veto Message

The veto message on **HB 331** is as follows:

I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto **House Bill 331** as passed by the 2000 Regular Session of the Kentucky General Assembly. I exercise this authority for the following reason:

House Bill 331 seeks to amend sections of KRS 95.435, 500.090, and 16.220 and related sections to require law enforcement agencies to transfer certain firearms to the Kentucky State Police for disposition by public auction. This bill would eliminate the option of local law enforcement agencies to destroy, dispose of or retain confiscated firearms and requires the transfer of weapons, that in some instances may have been used in the commission of crimes, to the State Police for public auction and potential use again in the commission of a crime. Resale of these guns would be contrary to gun bayback programs already at work in our communities that use federal funds to purchase handguns, rifles, and assault weapons. My veto of this bill would not irreparaby harm interested parties and may delay proper consideration of this issue to the next regular or special session of the General Assembly. At that time consideration could be given a compromise permitting the resale of certain firearms including so-called longarms and the destruction of cheap weapons often used in the commission of crimes. While I support the right of citizens to keep and bear arms as recognized in the 2nd Amendment to the United States Constitution, I object to the provisions of **House Bill 331** as being a hindrance to the efforts of our law enforcement personnel who work everyday on our streets to fight crime and particularly crimes committed with firearms. Done this 14th day of April, 2000, in Frankfort Kentucky, at 3:25 p.m.

Report of Committees (Continued)

Free Conference Committee Report No. 2 was filed on **HB 331**.

Senate Message (Continued)

Message in regard to **HB 576**: The Senate has adopted the Free Conference Committee Report on **HB 576** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 611**: The Senate has adopted the Free Conference Committee Report on **HB 611** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 502**: The Senate has adopted the Second Free Conference Committee Report on **HB 502** and is notifying this Honorable Body that it has repassed the bill as amended in free conference.

Message in regard to **HB 577**: The Senate has adopted the Free Conference Committee Report on **HB 577** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 3:30 p.m.)

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 335** and **SB 332** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:37 p.m.)

Senate Message

Message in regard to **HB 430**: The Senate has passed **HB 430** by way of Senate Committee Substitute and Senate Committee Amendments and respectfully requests concurrence of this Honorable Body. (Time: 3:35 p.m.)

Representative Stumbo moved that **HB 70, HB 856, HB 331, HB 130,** and **HB 946** be recommitted to the Committee on Rules. Agreed.

Representative Cave asked if a veto message is sent to the Rules Committee and the Rules Committee reports the bill out, does Rule 41 apply to them put the Majority Floor Leader in the position of acting for the Rules Committee in calling the bill from the Orders of the Day. Representative Cave also asked if a motion to override the veto on **HB 70** would have been proper before the motion was made to send the veto message to Rules.

The Speaker ruled that the House probably needs better rules regarding handling veto messages, but the procedure outlined by the Majority Floor Leader and agreed to by the House is proper and in order.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

HB 541, HB 572, and **HB 583** delivered to the Senate and signed by the President. Delivered to the Governor on April 14, 2000, at 4:52 p.m.

Report of Committees (Continued)

The Committee on Rules reported that **HB 70, HB 856,** and **HB 331** have been posted for passage in the Orders of the Day for April 14, 2000.

Orders of the Day (Continued)

Representative Stumbo moved that **HB 70** be taken from Orders of the Day for consideration of the Governor's veto. Agreed.

Representative Kerr moved that **HB 70** be placed on its passage, the Governor's veto notwithstanding. Agreed.

On the roll call the vote was: **Yeas 82, Nays 16**. (See April 14, 2000 roll call on **HB 70**-Appendix.)

HB 70 was passed over the Governor's veto.

Representative Stumbo moved that **HB 331** be taken from Orders of the Day for consideration of the Governor's veto. Agreed.

Representative Gray moved that **HB 331** be placed on its passage, the Governor's veto notwithstanding. Agreed.

On the roll call the vote was: **Yeas 63, Nays 27**. (See April 14, 2000 roll call on **HB 331**-Appendix.)

HB 331 was passed over the Governor's veto.

Representative Stumbo moved that **HB 856** be taken from Orders of the Day for consideration of the Governor's veto. Agreed.

Representative J. Arnold moved that **HB 856** be placed on its passage, the Governor's veto notwithstanding. Agreed.

On the roll call the vote was: **Yeas 84, Nays 10**. (See April 14, 2000 roll call on **HB 856**-Appendix.)

HB 856 was passed over the Governor's veto.

HB 502 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report No. 2 on **HB 502**. Agreed.

The Free Conference Committee No. 2 on **HB 502** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **HB 502** as amended by the Senate Committee Substitute with the following changes:

Retain the provisions of the Free Conference Committee Report No. 1 with the following changes:

On page 302, line 1, after the word "eligible" by inserting "to apply" and after the word "funding" by inserting "through the Kentucky Community and Technical College System"; and

On page 177, Item 232, after "75,000" by inserting "; City of Worthington Water & Sewer - $25,000" and deleting "150,000" and inserting in lieu thereof "175,000";

On page 226, Item 46, by moving "10,200" from fiscal year 2001-2002 to fiscal year 2000-2001; and

On page 226, Item 47, by deleting "145,000" and inserting in lieu thereof "134,800" and by deleting "75,000" and inserting in lieu thereof "85,200"; and

On page 177, Item 227, by deleting "45,000" and inserting in lieu thereof "25,000"; and

On page 181, before "Hancock County" by inserting the following:

"264a. Greenup County Fiscal Court - Junior Basketball

General Fund 10,000

264b. Greenup County Fiscal Court - Juvenile Detention Cost

General Fund 10,000"; and

On page 243, line 1, by deleting "500,000" and insert in lieu thereof "300,000"; and

On page 243, before "Whitley County" by inserting the following:

"227a. Webster County Ambulances

Restricted Funds 200,000"; and

On page 204, Item 525, by deleting "50,000" and inserting in lieu thereof "40,000"; and

On page 204, Item 526, by deleting "Bond Funds 50,000" and inserting in lieu thereof "General Fund 35,000"; and

On page 204, Item 527, by deleting "25,000" and inserting in lieu thereof "10,000"; and

On page 204, Item 528, by deleting "50,000" and inserting in lieu thereof "40,000"; and

On page 221, Item 716, by deleting "175,000" and inserting in lieu thereof "225,000"; and

On page 170, Item 159, by deleting "1,054,800" and inserting in lieu thereof "1,004,800"; and

On page 170, before Item 160 by inserting the following:

"159a. Whitesville Community Park Lighting Project

Bond Funds 50,000"; and

Adjusting totals and subtotals accordingly.

Signed: April 14, 2000 - Representatives Callahan, Moberly, Richards, L. Clark, Napier, Stumbo, and Barrows; Senators Williams, Sanders, Borders, Kelly, Tori, Roeding, and Karem. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Moberly moved that **HB 502**, as amended by the Free Conference Committee Report No. 2, be passed.

On the roll call the vote was: **Yeas 90, Nays 8.** (See April 14, 2000 roll call on **HB 502** - Appendix.)

HB 502, as amended by the Free Conference Committee Report No. 2, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 502**, as amended by the Free Conference Committee Report No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 576 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **HB 576**. Agreed.

The Free Conference Committee on **HB 576** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **HB 576** as amended by the Senate Committee Substitute with the following changes:

Beginning on page 1, line 1, through page 6, line 5, by deleting those lines in their entirety and inserting in lieu thereof the following:

"PART I

OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky.

			2000-01	2001-02
1.	General Assembly			
	General Fund	9,812,300	13,312,300	
	Restricted Funds		153,500	97,300
	Total		9,965,800	13,409,600

The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year and provides for the continuation of the annual cost of living adjustment authorized for the 1998-2000 biennium. Notwithstanding KRS 6.190, 6.213, and 6A.020, the daily compensation provided by KRS 6.190 and 6A.020 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 1998-2000 biennium and shall continue as adjusted on January 1, 2001, and January 1, 2002, by the all urban consumer price index (CPI-U) not to exceed 5 percent (5%) per annum but not less than zero percent (0%) per annum.

			2000-01	2001-02
2.	Legislative Research Commission			
	General Fund	26,638,100	27,304,100	
	Restricted Funds		2,200	2,200
	Total		26,640,300	27,306,300

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation shall not exceed 261 in fiscal year 2000-2001 and 261 in fiscal year 2001-2002. Within this total, the permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

The above General Fund appropriation includes $150,000 in fiscal year 2001-2002 for the capital project authorized in the Capital Projects Budget, Part II. Project funds may be transferred to the Capital Construction Fund.

TOTAL - OPERATING BUDGET

		2000-01	2001-02
General Fund	36,450,400	40,616,400	
Restricted Funds		155,700	99,500
TOTAL		36,606,100	40,715,900

Notwithstanding the provisions of KRS 45.229, any unexpended balance remaining at the close of fiscal year 1999-2000 shall not lapse but shall continue into the 2000-2001 fiscal year and any unexpended balance in any succeeding fiscal year shall not lapse, but shall continue into the following fiscal year.

PART II

CAPITAL PROJECTS BUDGET

	2000-01	2001-02
1. Legislative Research Commission		
a. Printing/color duplicating machine		
General Fund	150,000	
TOTAL		150,000

The amount listed above is not in addition to the funds appropriated in the Operating Budget, Part I.

TOTALS - LEGISLATIVE BRANCH BUDGET

		2000-01	2001-02
General Fund	36,450,400	40,616,400	
Restricted Funds		155,700	99,500
TOTAL		36,606,100	40,715,900

PART III

GENERAL PROVISIONS

1. The Director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The Director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

5. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2000 Regular Session of the General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

6. KRS 48.313 shall control when a total, subtotal, or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Legislative Research Commission shall cause the Director of the Legislative Research Commission to prepare a final budget document reflecting the 2000-2002 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2000 Regular Session of the General Assembly.

9. Notwithstanding KRS 6.220, in lieu of stationery, there shall be allowed to each member of the House of Representatives the sum of two hundred fifty dollars ($250) and to each member of the Senate the sum of five hundred dollars ($500). This allowance shall be paid out of the State Treasury at the beginning of the session.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.".

Signed: April 12, 2000 - Representatives Stumbo, L. Clark, Callahan, Ford, Napier, Moberly, Siler, Barrows, and Richards; Senators Williams, Sanders, Kelly, Borders, Roeding, Tori, Long, Karem, and Boswell. The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Moberly moved that **HB 576**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 98**, **Nays 1**. (See April 14, 2000 roll call on **HB 576** - Appendix.)

HB 576, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 576**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 577 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **HB 577**. Agreed.

The Free Conference Committee on **HB 577** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **HB 577** as amended by the Senate Committee Substitute with the following changes:

Beginning on page 1, line 1, through page 9, line 27, by deleting those lines in their entirety and inserting in lieu thereof the following:

"PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 2000, and ending June 30, 2001, and for the fiscal year beginning July 1, 2001, and ending June 30, 2002, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund, local facilities use allowance contingency fund, and for services performed by the Circuit Clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2000-01	2001-02
General Fund	135,769,500	143,131,900
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
Total	145,884,000	153,073,900

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 2000-2001 and in fiscal year 2001-2002 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices and judges in fiscal year 2000-2001 and a five percent (5%) adjustment for the justices and judges in fiscal year 2001-2002. Also included are funds for the salaries of the circuit clerks in fiscal year 2000-2001 and fiscal year 2001-2002 as provided for in the Judicial Branch Budget.

Notwithstanding KRS 23A.040 and KRS 23A.045, the Circuit Court judgeships in Floyd County (31st Circuit) and Christian County (3rd Circuit) created by the 1998 General Assembly are established as family court judgeships. General Fund amounts are included in fiscal year 2000-2001 and fiscal year 2001-2002 to provide for the continuation of these judgeships and related family court pilot projects.

Notwithstanding KRS 24A.100, included in the above General Fund appropriation is $178,300 in each fiscal year to increase the statutory maximum salary of trial commissioners.

b. Local Facilities Fund

	2000-01	2001-02
General Fund	38,509,200	45,245,200

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1999-2000 shall not lapse and shall continue into fiscal year 2000-2001, and any unexpended balance at the close of fiscal year 2000-2001 shall not lapse and shall be continued into fiscal year 2001-2002.

c. Local Facilities Use Allowance Contingency Fund

	2000-01	2001-02
General Fund	-0-	-0-

Notwithstanding KRS 45.229, General Fund support totaling $414,500 in fiscal year 1999-2000 shall not be expended, but be continued into fiscal year 2000-2001 and appropriated to the Local Facilities Fund. Notwithstanding KRS 45.229, any remaining unexpended balance shall not lapse, but be continued into fiscal year 2000-2001, and any remaining unexpended balance at the close of fiscal year 2000-2001 shall not lapse, but be continued into fiscal year 2001-2002 to provide for cost overruns in authorized court facilities projects not to exceed fifteen percent (15%) of the use allowance.

Total Court of Justice

	2000-01	2001-02
General Fund	174,278,700	188,377,100
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
Total	184,393,200	198,319,100

2. Judicial Form Retirement System

	2000-01	2001-02
General Fund	4,196,700	4,213,400

General Fund amounts are included to provide for the 1999 actuarial assessed needs of the Judicial Form Retirement System. Included in the above General Fund appropriation is $420,000 in each fiscal year for the senior status program for special judges in accordance with legislation enacted by the 2000 Regular Session of the General Assembly.

TOTAL - OPERATING BUDGET

	2000-01	2001-02
General Fund	178,475,400	192,590,500
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
TOTAL	188,589,900	202,532,500

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects

The multiyear schedule for the use allowance payments for the capital costs for each local facility is contained in the Judicial Branch Budget.

a.	Casey County - Project Scope	6,837,200
b.	Magoffin County - Project Scope	7,606,200
c.	Knott County - Project Scope	6,903,200
d.	Bullitt County - Project Scope	14,336,600
e.	Wayne County - Project Scope	7,399,300
f.	Johnson County - Project Scope	7,461,200
g.	Perry County - Project Scope	8,490,200
h.	Muhlenberg County - Project Scope	6,958,500
i.	Clay County - Project Scope	7,075,800
j.	Simpson County - Project Scope	7,263,700
k.	Breathitt County - Project Scope	6,735,400

l.	Metcalfe County - Project Scope	5,439,300
m.	Carter County - Project Scope	7,472,100
n.	Cumberland County - Project Scope	5,560,200
o.	Nelson County - Project Scope	12,553,800
p.	Boone County - Additional Scope	8,328,100
q.	Bourbon County - Additional Scope	2,400,000
r.	Christian County - Additional Scope	8,284,200
s.	Harlan County - Additional Scope	5,070,400
t.	Harrison County - Additional Scope	3,079,700
u.	Franklin County - Lease Office Space (Millcreek Park)	
v.	Franklin County - Lease Court of Appeals (Democrat Drive)	
w.	Jefferson County - Courts Parking Lease	

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense. (General Fund Surplus Account, KRS 48.700)

New courthouse projects are authorized in Casey, Magoffin, Knott, Bullitt, Wayne, Johnson, Perry, Muhlenberg, Clay, Simpson, Breathitt, Metcalfe, Carter, Cumberland, and Nelson Counties. General Fund support to provide use allowance payments and related operating expenses for these projects is deferred to the 2002-2004 fiscal biennium pending action of the 2002 General Assembly.

TOTAL - JUDICIAL BRANCH BUDGET

	2000-01	2001-02
General Fund	178,475,400	192,590,500
Restricted Funds	8,031,200	8,207,300
Federal Funds	2,083,300	1,734,700
TOTAL	188,589,900	202,532,500

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 2000 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2000, and June 30, 2001, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2000-2002 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 2000 Regular Session of the General Assembly.

9. The Chief Justice shall establish rules of procedure on matters relating to the design, financing, and construction of court facilities. The Administrative Office of the Courts shall oversee the design, financing, and construction of court facilities. Capital costs, for the purpose of computing the maximum annual use allowance, shall not exceed the project scope as authorized by the General Assembly in this judicial branch budget unless increased and approved through the procedures outlined below.

The Administrative Office of the Courts shall assess the need for construction or renovation of court facilities throughout the Commonwealth and develop a project program for the construction or renovation of those court facilities that the Administrative Office of the Courts determines to be most in need of construction or renovation. Based on a needs assessment, the Administrative Office of the Courts shall develop a prioritized list of proposed court facilities projects and submit the list to the Chief Justice for approval and to the Court Facilities Standards Committee for informational purposes only. Upon approval by the Chief Justice, the Administrative Office of the Courts shall submit the prioritized list to the Capital Planning Advisory Board, by April 15 of 2001, in accordance with KRS 7A.120.

The Administrative Office of the Courts shall develop and maintain uniform contracts to be used by local units of government when procuring architectural, construction, financial, or other services relating to court facilities projects authorized by the General Assembly. Each county with a court project authorized by the 2000 General Assembly shall enter into a written memorandum of agreement with the Administrative Office of the Courts. Before the Administrative Office of the Courts submits its next budget request for court projects under KRS 48.050, each local unit of government that is expected to participate in financing a requested court project shall enter into a written memorandum of agreement with the Administrative Office of the Courts. The agreements shall be developed by the Administrative Office of the Courts, and shall specify the rights, duties, and obligations of the local unit of government and the Administrative Office of the Courts relating to the project, and shall be contingent upon the project's authorization by the General Assembly.

No contract, and no modification to any contract, relating to the design, financing, or construction of court facilities projects authorized by the General Assembly shall be executed unless first reviewed and approved by the Administrative Office of the Courts. All court facilities projects, beginning with those authorized by the 2000 General Assembly, shall comply with the Kentucky standards for court facilities to be established by the Chief Justice and the Administrative Office of the Courts.

The use allowance in the judicial branch budget recommendation submitted under KRS 48.100 shall be determined as if bonds will be issued for a term of twenty (20) years at the prevailing market rate, computed from the estimated date that the Court of Justice will occupy the facility. If the market rate for the bonds assumed in the budget recommendation, including that in the recommendation for FY 2001-2002, has increased when the bonds are to be sold, the director of the Administrative Office of the Courts may approve an extension in the bond term, up to a total of twenty-five (25) years, but only as necessary to keep the annual use allowance within the budgeted amount. All bonds issued by any local unit of government for court facilities projects shall be limited to the term approved by the Administrative Office of the Courts.

Before approving any bond issue for a term exceeding twenty-five (25) years, the director of the Administrative Office of the Courts shall submit a proposal for the extended term to the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee. The proposal shall include a statement of the necessity for the extended bond term and the impact of the extended term on the project's budgeted scope and authorized annual use allowance. Within thirty (30) days after receiving a proposal to extend a bond term beyond twenty-five (25) years, the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative Office of the Courts. If either committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days:

(a) Disapprove and take no further action on the proposal;

(b) Revise the proposal to comply with the committee's objections; or

(c) Determine to approve and proceed with the proposal over the committee's objection.

The Court of Justice may agree to increase the budgeted scope of a court project or project pool authorized by the General Assembly, and may draw from the local facilities use allowance contingency fund to cover any resulting increase in the budgeted annual use allowance, if and only if:

(a) The appropriate unit of government first submits a proposal for the increase to the Court Facilities Standards Committee, and the Court Facilities Standards Committee approves the increase; and

(b) The annual use allowance for the project or project pool, adjusted for the proposed increase in scope, would not exceed the annual use allowance specified for that project or project pool in the multiyear use allowance schedule set out in the judicial branch budget bill or memorandum by more than fifteen percent (15%).

Before the Court of Justice gives final approval to an increase in the budgeted scope of an authorized project or project pool listed in a judicial branch budget bill which would result in an increased use allowance, the director of the Administrative Office of the Courts shall submit a proposal for the increase to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. Within thirty (30) days after receiving a proposal to increase the use allowance, the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative Office of the Courts of its decision. If the Capital Projects and Bond Oversight

Committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days of receiving the committee's notice of disapproval:

(a) Revise the proposal to comply with the committee's objections;

(b) Cancel and take no further action on the proposal; or

(c) Determine to implement the proposal over the committee's objection.

The Administrative Office of the Courts shall report to the Capital Projects and Bond Oversight Committee within thirty (30) days any action taken by the Court of Justice to approve a scope increase of a project within a pool which would increase the use allowance for that project. The Capital Projects and Bond Oversight Committee shall maintain records of proposals, findings, decisions, and actions taken under this section. When appropriate, the committee shall provide this information to other legislative committees or to the General Assembly. The Administrative Office of the Courts shall provide to the Capital Projects and Bond Oversight Committee, at the committee's January, April, July, and October regular meetings, a status report on the progress of all incomplete court facilities projects.

On August 1 of each year, the Administrative Office of the Courts shall prepare a financial report on the court facility use allowance contingency fund for the fiscal year ending on June 30 of that year. The report shall include explanations, allotments, expenditures, encumbrances, and the available balance.

Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project, and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

10. a. A fiscal court, by ordinance, may assess additional fees and costs, for the purpose of paying expenses for courthouses, bonds related to them, and administration thereof in Circuit Court and District Court:

(1) In civil cases, a fee of up to twenty-five dollars ($25) may be added to filing fees.

(2) In criminal cases, a cost of up to twenty-five dollars ($25) may be added to the court costs that the defendant is required to pay.

(3) In civil cases that are appealed from Circuit Court to the Court of Appeals, a fee of up to twenty-five dollars ($25) may be added to the filing fees.

(4) In all traffic offenses, a fee of up to ten dollars ($10) may be added to the court costs for each traffic offense.

(5) In probate cases, a filing fee of up to ten dollars ($10) may be added to each filing fee.

(6) In misdemeanor cases, a cost of up to twenty dollars ($20) may be added to the court costs.

(7) In small claims, a fee of up to ten dollars ($10) may be added to all filing fees.

(8) In civil cases, a fee of up to ten dollars ($10) may be added to all filing fees.

b. A fiscal court, by ordinance, may assess additional fees on subpoena and civil summons service by the local sheriff, for the purpose of paying expenses for courthouses, bonds related to them, and administration thereof. The fees may be added as follows:

(1) In addition to the fees normally charged for the service of a subpoena, the person requesting service may be charged a fee of up to ten dollars ($10).

(2) In addition to the fees normally charged for the service of a civil summons, the person requesting service may be charged a fee of up to ten dollars ($10).

11. Funding for the Commonwealth's ten family courts has been granted with the intention that the Family Court Pilot Project be continued during fiscal year 2000-2001 and fiscal year 2001-2002. Continuation of the Family Court Pilot Project is in recognition that nine such family courts, located in geographically diverse locations across Kentucky, have been in operation for less than two years and additional time and experience are required to properly assess the success of the Family Court Project.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.".

Signed: April 12, 2000 - Representatives Stumbo, L. Clark, Callahan, Richards, Ford, Napier, Siler, Draud, Barrows, and Moberly; Senators Williams, Kelly, Sanders, Borders, Roeding Tori, Long, Karem, and Boswell. The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Moberly moved that **HB 577**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 76, Nays 15.** (See April 14, 2000 roll call on **HB 577** - Appendix.)

HB 577, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 577**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 608** and **HB 996** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:22 p.m.)

Orders of the Day (Continued)

HB 611 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Thomas moved the adoption of the following Free Conference Committee Report on **HB 611**. Agreed.

The Free Conference Committee on **HB 611** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA copy of **HB 611** as amended by the Senate Committee Substitute with the following changes:

Starting on page 1, by amending the title to read as follows: "AN ACT relating to the tobacco Master Settlement Agreement and declaring an emergency."; and

On page 1, after the enacting clause, by deleting the rest of the bill, and inserting:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act, unless the context requires otherwise:

(1) "Board" means the Agricultural Development Board created by Section 4 of this Act;

(2) "Fund" means the agricultural development fund established by an Act of the 2000 Regular Session, which may be called the "Rural Development Fund" in the Act;

(3) "Subcommittee" means the Tobacco Settlement Agreement Fund Oversight Committee created by Section 12 of this Act;

(4) "Council" means an agricultural development council required by Section 11 of this Act;

(5) "Master Settlement Agreement" means the settlement agreement dated November 23, 1998, entered into by the Commonwealth of Kentucky and major United States tobacco product manufacturers; and

(6) "Phase II Agreement" means the National Tobacco Grower Settlement Trust Agreement dated July 19, 1999, entered into by tobacco states and major tobacco companies to compensate tobacco growers and quota owners for losses resulting from the Master Settlement Agreement.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Fifty percent (50%) of the moneys received in the tobacco settlement agreement fund, created in KRS 248.654, from Master Settlement Agreement funding on or before June 30, 2000, along with accrued interest, shall be allocated on the effective date of this Act to the agricultural development fund created in House Bill 583 of the 2000 Regular Session of the General Assembly. The moneys received in the agricultural development fund, along with the accrued interest, shall be further allocated as follows:

  (a) Forty million dollars ($40,000,000) from the agricultural development fund shall be set aside to supplement Phase II funding as provided in Section 3 of this Act; and

  (b) The moneys remaining in the agricultural development fund after the Phase II supplement is set aside shall be further allocated as follows:

    1. Thirty-five percent (35%) to a "Counties Account" within the fund for distribution to applicants within counties. The amount allocated to each county within the account shall be determined by the formula established in subsection (3) of this section. Counties shall be assured of receiving at least as much as determined by the formula; and

    2. Sixty-five percent (65%) for other projects throughout the state.

(2) Fifty percent (50%) of the moneys received in the tobacco settlement agreement fund from Master Settlement Agreement funding after June 30, 2000, along with accrued interest, shall be allocated within twenty (20) days of receipt of the moneys to the agricultural development fund created in House Bill 583 of the 2000 Regular Session of the General Assembly. The moneys received in the fund, along with the accrued interest, shall be further allocated as follows:

  (a) For the life of the Phase II payment program, funds in the agricultural development fund shall be set aside first to supplement Phase II funding when needed as outlined in Section 3 of this Act; and

(b) The moneys remaining in the agricultural development fund after the Phase II supplement is set aside shall be further allocated as follows:

1. Thirty-five percent (35%) to the counties account provided in subsection (1)(b)1. of this section; and
2. Sixty-five percent (65%) for other projects throughout the state.

(3) The allocation within the counties account in the agricultural development fund for each county shall be assured for use in each county and shall be based on the following weighted factors:

(a) Fifty percent (50%) weight to the county's percentage of the state's tobacco allotment based on 1999 data;

(b) Twenty-five percent (25%) weight to the county's number of farms with tobacco quotas in the county as a percentage of farms with tobacco quotas statewide, based on 1999 data; and

(c) Twenty-five percent (25%) weight to the economic impact index for each county which shall be calculated in the following manner:

1. The tobacco income for each county (1997 burley tobacco production times average burley market price) divided by the total personal income for each county. The data used shall reflect the year most recently available for total personal income.
2. The percentage derived in subparagraph 1. of this paragraph (tobacco income as a percentage of total personal income for each county) shall then be summed across all counties.
3. The economic impact index amount shall be each county's tobacco income as a percentage of total personal income, divided by the aggregate percentage stated in subparagraph 2. of this paragraph.

(4) When a county's allocation is exhausted, applicants from that county may apply for funds from the other sixty-five percent (65%) of the moneys in the agricultural development fund. Failure by a county to exhaust its county allocation shall not preclude the county from receiving the benefits of a proposal approved by the board from state funds.

(5) Any funds directly appropriated by the General Assembly shall be assessed against the percentage of funds allocated to the state portion of the agricultural development fund.

(6) Interest earned on any moneys in any fund or account created in Sections 1 to 14 of this Act shall accrue to that fund or account until transferred to another fund or account created or referenced in Sections 1 to 14 of this Act.

(7) None of the moneys left at the end of a fiscal year in any fund or account created or referenced in Sections 1 to 14 of this Act shall lapse, but shall stay with the fund or account as long as the fund or account exists, or until the moneys are transferred to another fund or account created or referenced in Sections 1 to 14 of this Act. In the case of any fund or account created in Sections 1 to 14 of this Act that is terminated with a remaining balance, the balance shall remain in the agricultural development fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Forty million dollars ($40,000,000) of the moneys credited to the agricultural development fund as set out in subsection (1)(a) of Section 2 of this Act shall be set aside to supplement Phase II on the effective date of this Act. Additional funds shall be set aside to supplement Phase II funding as needed from moneys credited to the agricultural development fund after June 30, 2000.

(2) Phase II payments shall be supplemented each year for tobacco growers and quota owners so that the total amount available for payment is maintained at one hundred fourteen million dollars ($114,000,000) each year. If the Phase II supplement set aside referred to in subsection (1) of this section falls below the amount needed to reach the one hundred fourteen million dollar ($114,000,000) level in any year before the end of the twelve (12) year Phase II funding program, procedures outlined in subsection (3) of this section shall be followed.

(3) (a) If the moneys set aside for Phase II supplement before June 30, 2000, become insufficient to continue to meet the yearly one hundred fourteen million dollar ($114,000,000) funding level, moneys needed to supplement Phase II funding to maintain funding at the 1999 level of one hundred fourteen million dollars ($114,000,000) per year for each of the remaining eleven (11) years of the Phase II funding program shall continue to be provided to the Phase II set aside from funds received in the tobacco settlement agreement fund after June 30, 2000. As Master Settlement Agreement funding becomes available after June 30, 2000, for calendar year 2001 and each year thereafter for the life of the Phase II payment program, the moneys needed for the Phase II supplement to assure availability of the one hundred fourteen million dollar ($114,000,000) funding level for that year shall be taken from the agricultural development fund. When a determination is made that funds are needed, funds shall be taken from the agricultural development fund before any other distributions are made following the next master settlement payment in April of each year. On the last year of distribution of the Phase II supplement funds, any excess funds beyond those needed to reach the one hundred fourteen million dollar ($114,000,000) level shall be returned to the agricultural development fund.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, if the moneys required to supplement the Phase

II funding at the one hundred fourteen million dollar ($114,000,000) level are less than twenty million dollars ($20,000,000) in a year, the amount shall be deferred to a later year until at least a deficit of twenty million dollars ($20,000,000) is achieved before supplement payments are made.

(4) The Tobacco Settlement Trust Corporation created in House Bill 96 of the 2000 Regular Session of the General Assembly shall provide for distribution of the Phase II supplement funds. The corporation shall use the same formula and process for distribution of the Phase II supplement funds as it uses for distributions under the regular Phase II payment program, except that the corporation shall send the list of supplement payment recipients to the Revenue Cabinet rather than to the trustee of the National Tobacco Grower Settlement Trust. The Revenue Cabinet shall process the information and issue the checks at no charge to the Agricultural Development Board. The Phase II supplement funds shall be identified as supplement funds when distributed to tobacco growers and quota owners.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The Agricultural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, 61.870, and other applicable statutes.

(2) The board shall consist of fifteen (15) members as follows:

(a) Four (4) voting members or their designees, as follows:

1. The Governor of the Commonwealth of Kentucky, who shall serve as chair;

2. The Commissioner of the Kentucky Department of Agriculture, who shall serve as vice chair and shall serve as chair in the absence of the Governor;

3. The secretary of the Cabinet for Economic Development; and

4. The director of the Cooperative Extension Service; and

(b) Eleven (11) voting members appointed by the Governor, who shall be geographically distributed throughout the state and subject to confirmation by the House of Representatives and Senate as provided in KRS 11.160(2). The members shall be as follows:

1. Seven (7) active farmers, at least four (4) of whom shall be from counties that are substantially tobacco-impacted, as determined by a formula that includes tobacco income as a percentage of total personal income in the county, and at least two (2) of whom shall have experience in agricultural diversification;

2. One (1) representative of the Kentucky Farm Bureau;

3. One (1) representative of the Kentucky Chamber of Commerce, who shall be an agribusiness person;

4. One (1) attorney with farm experience and familiarity with agricultural policy; and

5. One (1) agricultural lender.

(3) The members appointed under subsection (2)(b)2. and 3. of this section shall be chosen from a list of three (3) nominees submitted to the Governor by each of the respective organizations.

(4) Consideration shall be given to racial and gender equity in the appointment of board members.

(5) The majority of the voting members shall be active farmers.

(6) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.

(7) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

(a) Two (2) members shall be appointed for one (1) year;

(b) Three (3) members shall be appointed for two (2) years;

(c) Three (3) members shall be appointed for three (3) years; and

(d) Three (3) members shall be appointed for four (4) years.

(8) The Governor shall convene the first meeting of the board by August 1, 2000.

(9) The board shall meet monthly, or at the call of the chair or a majority of the voting members.

(10) A quorum of the board shall consist of eight (8) voting members. A majority of the voting members present may act upon matters before the board.

(11) The board shall be attached to the Office of the Governor for administrative purposes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The board's duties shall include, but not be limited to:

(1) Administering the agricultural development fund, except as provided in subsection (2) of Section 9 of this Act;

(2) Receiving requests and applications for funds and authorizing the distribution of funds. The board may receive applications from institutions of public postsecondary education for financial and technical assistance in conducting alternative crop development research. The board shall assist the applicants in obtaining any necessary federal permits that may be required to conduct alternative crop research. A recipient institution shall report the status and progress of the alternative crop development research to the board, the Interim Joint Committee on Agriculture and Natural Resources, and the Tobacco Settlement Agreement Fund Oversight Committee. The board shall promulgate administrative regulations relating to growing and researching alternative crops at the selected postsecondary institution, and shall adopt any applicable federal regulations;

(3) Developing guidelines and criteria for eligibility for and disbursement of funds, the types of direct and indirect economic assistance to be awarded, and procedures for applying for funds and reviewing applications for assistance;

(4) Ensuring that each county agricultural development council's plans and county recommendations and applications receive major consideration in decisions on use of a county's funds;

(5) Completing a comprehensive plan:

(a) The comprehensive plan shall propose short-term and long-term goals, strategies, and investments in Kentucky agriculture that will assist farmers in remaining competitive in existing and new enterprises. The comprehensive plan shall identify a diversified mix of enterprises that are profitable to farmers and shall determine the investments necessary to support the viability of those enterprises. The plan shall be reviewed by the General Assembly and the subcommittee created in Section 12 of this Act. The subcommittee may issue comment on the plan. However, the board may act without General Assembly approval;

(b) As soon as possible following enactment of Sections 1 to 14 of this Act, a plan of action shall be devised to meet the immediate needs of the Commonwealth's farmers and tobacco impacted communities most adversely affected by tobacco losses. A set of priorities shall be established in the plan of action to implement and fund programs to meet those needs as soon as practical; and

(c) Notwithstanding the provisions of House Bill 583 passed by the 2000 Regular Session of the General Assembly, immediate funding needs may be addressed and funded before a comprehensive or strategic plan is completed. Proposals from an applicant may be approved by the board if they meet the criteria established in Section 7 of this Act;

(6) Preparing a biennial budget request in accordance with KRS Chapter 48;

(7) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the board will have and to maximize receipt of federal and other funds to the agriculture community in the Commonwealth;

(8) Promulgating administrative regulations relating to carrying out the purposes of Sections 1 to 14 of this Act;

(9) Hiring a director to carry out the will of the board;

(10) Ensuring the necessary mechanisms are in place for the committees created by Section 8 of this Act to function effectively;

(11) Contracting with other persons or entities if necessary to effectuate the board's purposes and functions;

(12) Enacting bylaws concerning the conduct of the board's business and other administrative procedures as the board deems necessary;

(13) Developing criteria to evaluate the success of the board's programs and expenditures to applicants. The criteria shall be simple, easily measured, and easily understood. Criteria should include number of families farming, increases in farm income attributable to state programs, the number of diversified operations, and the number of different types of diversified efforts within a county, including the efforts that have failed;

(14) Providing reports of each meeting, along with expenditures approved or denied, within thirty (30) days of the meeting, to the Tobacco Settlement Agreement Fund Oversight Committee created by Section 12 of this Act. These reports shall contain detailed information relating to each expenditure by the board and detailed information on each application for funding a project or initiative by the board and decision by the board regarding each proposal, except information that may violate confidentiality. This information shall be provided by electronic format as prescribed by the Legislative Research Commission;

(15) Submitting an annual written report to the Governor, the Commissioner of Agriculture, the Tobacco Settlement Agreement Fund Oversight Committee, and the Legislative Research Commission regarding the administrative, financial, and programmatic activities of the board; and

(16) Making recommendations to the General Assembly through the Legislative Research Commission on possible adjustments to the funding formula for county allocations and the percent allocated to counties as provided in Section 2 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Criteria to be used in considering applications for state funds shall include, but not be limited to:

(a) Assistance to tobacco farmers and communities in counties most affected by the loss in tobacco income;

(b) Assistance to communities most dependent on agriculture;

(c) Enhancement and promotion of agriculture in the Commonwealth;

(d) Merits of the proposal in the application;

(e) Compatibility with state and local agriculture-related comprehensive plans;

(f) Documentation of measures likely to ensure soundness of the proposal such as cash flow, security, market evaluation, and infrastructure considerations;

(g) Promotion of diversification;

(h) Regional orientation;

(i) Cooperation among entities involved in the project and application process; and

(j) Effect on the economic viability of family farms.

(2) Uses and restrictions on the funds in the counties account shall include, but not be limited to, the following:

(a) Funds may be used for deferred, no-interest, or low-interest venture capital loans to enhance farms' revenues by initiating:

1. Current farming techniques or practices improvements; or

2. New farming ventures on the farm;

(b) Funds used for loans shall be administered through a duly licensed or chartered financial institution organized and regulated:

1. Under the laws of this state in accordance with KRS Chapter 287; or

2. Created by Congress and organized and regulated in accordance with provisions of federal law;

(c) Terms of the loans may include a limit on deferral of payment of interest or principal to five (5) years, and a limit on the interest rates. Repaid loans and interest shall be credited to the appropriate county's allocation within the counties account;

(d) Funds may be used as grants for local agricultural economic development projects;

(e) Funds may be used as grants for water line extension to farms or for a fifty percent (50%) match for water improvements on farms;

(f) Funds may be used for programs to assist farmers in transitioning from one type of farming to another or from farming to another vocation;

(g) Local governments may apply for funds to clean up environmental problems created by a farm failure where there is no reasonable prospect that the problem will be cleaned up by a private individual or entity;

(h) Eligibility for funds in this subsection shall require that:

1. Tobacco farmers be given priority;

2. Applicants have sufficient equity to assure a reasonable chance of success of the action proposed for funding;

3. Small farmers have as equal access to the funds as large farmers; and

4. Consideration be given to what percent of a county's allocation of moneys an applicant is requesting; and

(i) Counties may use their funds for multicounty or regional projects. They may also use their funds to maximize state or federal matching fund programs.

(3) In administering the fund under subsection (1) of Section 5 of this Act, the board shall be governed by the following principles:

(a) Individuals, groups, educational institutions, governmental entities, cooperatives, and other agriculturally related entities are eligible to receive moneys from the fund; and

(b) The board shall receive five hundred thousand dollars ($500,000) for administrative costs in fiscal year 2001 and six hundred thousand dollars ($600,000) in fiscal year 2002. These amounts shall include any costs necessary to offset administrative expenses incurred by the county cooperative extension service offices for providing administrative support to the agricultural development councils as provided in Section 11 of this Act.

(4) If the state board recommends that an application not be approved or that it be changed, the applicant may take the application before the oversight subcommittee created in Section 12 of this Act for discussion and possible resolution of differences.

SECTION 7. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of Section 2 of House Bill 583, passed in the 2000 Regular Session of the General Assembly, county allocations may be used for projects before the completion of a comprehensive plan or strategic plan as determined by the board or if they fall under the conditions described in subsection (5)(b) or (c) of Section 5 of this Act, or meet the criteria in subsection (2) of Section 6 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The board shall create committees, including, but not limited to:

(a) Access to Capital Committee;

(b) Environmental Cost Share Committee;

(c) Marketing and Entrepreneurship Committee;

(d) Technology, Infrastructure, and Training Committee;

(e) Farmland Preservation Committee; and

(f) Technical Issues Advisory Committee.

(2) Each committee shall be composed of board members knowledgeable about the programs being overseen by that committee.

(3) The committees shall assist the board in developing programs and criteria for programs to be considered by the board and may utilize nonboard members with expertise in the jurisdictional area of the committee for assistance. The committees shall make recommendations to the board, and the board shall determine which programs are to be overseen and implemented by the committees. The board shall determine which individual projects in each program are approved.

SECTION 9. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

Programs that shall be created by the board and overseen and implemented by the board or committees include:

(1) Programs that receive direct funding from the board:

(a) A Farm Market Development and Infrastructure Program to develop regional, integrated farm markets, and regional or community capital projects. The board may authorize moneys to the Department of Agriculture for each year of the biennium to be used for agriculture market development and infrastructure; and

(b) An Agricultural Entrepreneurship Program overseen by the board to support small farm agricultural diversification through technical assistance, business mentoring, and financial incentives.

(2) Programs that receive direct authorization for moneys from the agricultural development fund by the General Assembly may include, but not be limited to:

(a) An Environmental Stewardship Program to provide cost-share assistance to farmland owners for compliance with the state agriculture water quality plan and other environmental compliance requirements; and

(b) A Rural Water Line Extension Program to provide municipal water in areas of high agricultural activity or need. Priority shall be given to the tobacco-impacted communities most adversely affected by tobacco losses. The General Assembly shall authorize the issuance of bonds through the Kentucky Infrastructure Authority for this program.

(3) The board may create and fund other agricultural assistance programs in addition to those created under subsection (1) of this section, including an environmental cleanup program for cost-share assistance to tobacco warehouse operators for demolition and abatement of environmental hazards associated with tobacco warehouse structures.

SECTION 10. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The board is authorized to establish a Center for Entrepreneurship to operate under the Agricultural Entrepreneurship Program provided in subsection (1)(b) of Section 9 of this Act. The duties of the center shall include:

(1) Primarily identifying and coordinating with existing agencies in order to develop and deliver entrepreneurial assistance. The center shall be primarily a clearinghouse requiring little or no capital construction;

(2) Assisting local individuals and entities and regional and statewide entities in developing and carrying out entrepreneurial efforts relating to agriculture; and

(3) Advising the Agricultural Development Board on the fiscal soundness and other aspects of entrepreneurial proposals.

SECTION 11. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Each county shall establish an agricultural development council to evaluate the needs of the local agricultural economy and to devise a plan for the county that would identify programs best suited for the agricultural development of the county. The council shall assist prospective applicants in the council's county in obtaining moneys from the agricultural development fund. Consideration shall be given to racial and gender equity in the appointment of council members. Each council shall consist of eight (8) members as follows:

(a) Two (2) farmers selected by the Farm Service Agency county committee;

(b) Two (2) members selected by the board or boards of the soil conservation district or districts serving the county;

(c) Two (2) members selected by the county extension council, one (1) of whom shall have experience in agricultural diversification; and

(d) Two (2) young farmers between the ages of twenty-one (21) and forty (40), selected by the six (6) members in paragraphs (a) to (c) of this subsection.

(2) Members of the councils shall be initially appointed by August 1, 2000. These members shall serve until June 30, 2002. On July 1, 2002, and every two (2) years thereafter, members shall be appointed for two (2) year terms.

(3) Each council shall be attached to the county cooperative extension service for administrative support.

(4) Each council shall receive guidance and assistance from the board as the council devises plans and assists applicants as provided in subsection (1) of this section.

(5) Councils shall make applicants aware of criteria for projects set out in Section 6 of this Act.

(6) Councils shall be responsible for developing local strategies for enhancing agricultural opportunities and assisting local farmers.

(7) Each council shall utilize the resources of the Agricultural Entrepreneurship Program created in Section 9 of this Act, the Kentucky Small Business Development Center Network, and the Kentucky Department of Agriculture for assistance and support in aiding prospective applicants in obtaining moneys from the fund.

(8) Each county council shall provide its plan to the board. If the state board recommends changes in the county plan that the council does not agree with, the council may take the plan before the subcommittee created in Section 12 of this Act for discussion and possible resolution of differences.

SECTION 12. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Tobacco Settlement Agreement Fund Oversight Committee. The subcommittee shall be composed of twelve (12) members and shall include six (6) members of the House of Representatives and six (6) members of the Senate. The subcommittee shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint, from the membership of each house of the General Assembly, the members of the subcommittee for terms of two (2) years. The appointed members shall elect one (1) of their number to serve as chair. Any vacancy that may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs.

(2) The subcommittee shall meet monthly, or at the call of the chair. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3) and 7.110(5).

(3) A quorum of the subcommittee shall consist of seven (7) members. A majority of the members present may act upon matters before the subcommittee.

(4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).

(5) (a) Subsections (6) to (10) of this section shall apply only to the expenditures from and projects under the agricultural development fund;

(b) Subsection (11) shall apply to all expenditures under the tobacco settlement agreement fund created in KRS 248.654; and

(c) Subsection (12) shall apply to expenditures from the Early Childhood Development fund and the Kentucky Health Care Improvement fund created in House Bill 583 of this 2000 Regular Session.

(6) The subcommittee shall review each project being submitted to the Agricultural Development Board. In reviewing the projects, the subcommittee shall determine whether the criteria or requirements required by Sections 1 to 14 of this Act have been met and whether any other relevant requirements have been met.

(7) (a) If the subcommittee determines that any of the criteria or requirements required by Sections 1 to 14 of this Act, except as provided in subsection (5) of this section, have not been met, the subcommittee may, by majority vote, recommend to the board in writing that a project not be approved.

(b) If the subcommittee determines that all relevant criteria were met for proposals not approved by the board, the subcommittee may, by majority vote, recommend to the board in writing that the project be approved.

(c) The reasons for recommending that a project be approved or not approved shall be stated in correspondence from the subcommittee, which shall be issued within thirty (30) days of action of the subcommittee.

(8) If the board proceeds with approval of a project under the agricultural development fund that the subcommittee has recommended in writing not be approved, or refuses to approve a project that the subcommittee has recommended in writing be approved, the board shall provide a written explanation to the subcommittee as to why the board took that action on the project. The written explanation shall be sent within thirty (30) days of receiving the subcommittee's notification.

(9) The subcommittee shall also hear cases that arise under subsection (8) of Section 11 and subsection (4) of Section 6 of this

Act. In these cases the subcommittee shall provide a forum for discussion and possible resolution of differences between the board and the affected party. If the differences are not resolved, the subcommittee may, by majority vote, recommend to the board in writing a course of action.

(10) The subcommittee shall maintain records of its findings and determinations. The records shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission within thirty (30) days of making any determination.

(11) The subcommittee shall issue an annual written report to the Legislative Research Commission regarding the findings of the subcommittee.

(12) All expenditures under the Early Childhood Development fund and the Kentucky Health Care Improvement fund created in House Bill 583 of the 2000 Regular Session of the General Assembly shall be reported to the subcommittee. The expenditures shall be submitted in an electronic format in a manner approved by the Legislative Research Commission in order for the Commission to have a repository of information in Master Settlement Agreement funding expenditures.

SECTION 13. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Agriculture may provide technical assistance to local individuals and entities, county rural development advisory councils, and regional entities in developing proposals and in implementing proposals approved by the Agricultural Development Board.

SECTION 14. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Those agencies and educational institutions that receive agriculturally related funding under the provisions of Sections 1 to 14 of this Act, and those that receive state funding relating to assisting agriculture and farmers in this state shall devote efforts to revitalization and diversification of tobacco farms.

(2) Each agency or institution in subsection (1) of this section shall issue a semiannual report on the details of the efforts it is carrying out to revitalize and diversify tobacco farms. The report shall include details of successes that have been achieved and shall be provided to the subcommittee created in Section 12 of this Act.

Section 15. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Coal Marketing and Export Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) Office of the Chief Information Officer;[and]
(10) Office of Coal Marketing and Export; and
(11) Agricultural Development Board.

Section 16. As used in subsection (2) of Section 1 of this Act, "agricultural development fund" means the "rural development fund" created in House Bill 583 of this 2000 Regular Session, or a fund created in other legislation of this 2000 Regular Session to receive moneys for agriculture in the tobacco settlement agreement fund established by KRS 248.654. In codifying subsection (2) of Section 1 of this Act, the Reviser of Statutes may substitute the relevant KRS section number for the phrase "Act of the 2000 Regular Session" in that subsection.

Section 17. Whereas it is important to establish the administrative functions of this Act as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Signed: April 12, 2000 - Representatives Barrows, McKee, Nunn, and R. Adams; Senators Boswell, Harris, Kelly, Pendleton, Sanders, and Williams. The above-named members, in separate votes by house, concur in the provisions of the report.

Representative Thomas moved that **HB 611**, as amended by the Free Conference Committee Report, be passed.

Representative Worthington moved that the following relating to the Free Conference Committee Report on **HB 611** be spread upon the Journal. Agreed.

It is the intention of the General Assembly in this Free Conference Committee Report to encourage multi-county and regional projects and the maximizing of federal, state and these tobacco settlement dollars.

Page 4, Section 2, Subsection 4 of the Free Conference Co. Report makes it clear that if a county allocation has been used up, "exhausted", other applications from that county can be made to be state board for state funds and if the county's allocation has not been "exhausted" that county or an applicant in a county can receive the benefits of other projects approved by the state board.

The language left some question as to the whether an application from a county or an applicant in a county could be made for state funds before a county's allocation had been exhausted. The answer is yes-that is the clear intent of the bill and those of us who drafted the Free Conference Report. The best example would be the "water funds" or other programs directly funded by the General Assembly, with $50 million available in "water funds"-exhaustion of a county's allocation would not be required before applying for water funds. An application from a county or applicant in a county can be made for any state funds before all county allocations have been used up.

Representative Thomas moved that **HB 611**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 89**, **Nays 5**. (See April 14, 2000 roll call on **HB 611** - Appendix.)

HB 611, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 611**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Message in regard to **HB 70**: The Senate has voted to pass **HB 70**, the objections of the Governor notwithstanding, and is respectfully returning same to this Honorable Body. (Time: 6:00 p.m.)

Orders of the Day (Continued)

HB 430, with Senate Committee Substitute and Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 430** is as follows:

HB 430, AN ACT relating to judgeships.

WHEREAS, the 1998 General Assembly created nine (9) family court pilot projects and nine (9) new judgeships which were designated as family court judgeships; and

WHEREAS two (2) of these judgeships, one each in Floyd County (31st Judicial Circuit) and Christian County (3rd Judicial Circuit) were created in the 1998 Judicial Branch Conference Budget Report to 1998 Ky. Acts ch. 604; and

WHEREAS the Judicial Branch Conference Budget Report expires June 30, 2000; and

WHEREAS the Kentucky Supreme Court has certified the necessity for these two (2) judgeships;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Second Judicial Circuit.

(2)[~~Third Judicial Circuit.~~

~~(3)~~] Sixth Judicial Circuit.

(3)[~~(4) Ninth Judicial Circuit.~~

~~(5)~~] Eleventh Judicial Circuit.

(4) Twelfth Judicial Circuit.

(5)[~~(6)~~]Fourteenth Judicial Circuit.

(6)[~~(7)~~]Seventeenth Judicial Circuit.

(7) Twenty-first Judicial Circuit.

(8) Twenty-fourth Judicial Circuit.

(9) Twenty-seventh Judicial Circuit.

[~~(10) Thirty-first Judicial Circuit.~~]

(10)[~~(11)~~] Thirty-second Judicial Circuit.

(11)[~~(12)~~] Thirty-fourth Judicial Circuit.

(12)[~~(13)~~] Forty-sixth Judicial Circuit.

(13)[~~(14)~~] Fifty-fourth Judicial Circuit.

Section 2. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

(1) ***Third Judicial Circuit.***

(2) Eighth Judicial Circuit.

(3) Ninth Judicial Circuit.

(4)[~~(2)~~]Twenty-fifth Judicial Circuit.

(5)[~~(3)~~]Twenty-eighth Judicial Circuit.

(6) Thirty-first Judicial Circuit.

(7)[~~(4)~~]Thirty-fifth Judicial Circuit.

(8)[~~(5)~~]Forty-eighth Judicial Circuit.

Section 3. KRS 24A.030 is amended to read as follows:

The state is divided into judicial districts, each to be composed of the following counties:

(1) First Judicial District. Fulton and Hickman.

(2) Second Judicial District. McCracken.

(3) Third Judicial District. Christian.

(4) Fourth Judicial District. Hopkins.

(5) Fifth Judicial District. Crittenden, Union and Webster.

(6) Sixth Judicial District. Daviess.

(7) Seventh Judicial District. Logan and Todd.

(8) Eighth Judicial District. Warren.

(9) Ninth Judicial District. Hardin.

(10) Tenth Judicial District. Hart and Larue.

(11) Eleventh Judicial District. Green, Marion, Taylor and Washington.

(12) Twelfth Judicial District. Henry, Oldham and Trimble.

(13) Thirteenth Judicial District. Garrard, Jessamine and Lincoln.

(14) Fourteenth Judicial District. Bourbon, Scott and Woodford.

(15) Fifteenth Judicial District. Carroll, Grant and Owen.

(16) Sixteenth Judicial District. Kenton.

(17) Seventeenth Judicial District. Campbell.

(18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton and Robertson.

(19) Nineteenth Judicial District. Bracken, Fleming and Mason.

(20) Twentieth Judicial District. Greenup and Lewis.

(21) Twenty-first Judicial District. Bath, Menifee, Montgomery and Rowan.

(22) Twenty-second Judicial District. Fayette.

(23) Twenty-third Judicial District. Estill, Lee and Owsley.

(24) Twenty-fourth Judicial District. Lawrence, Johnson and Martin.

(25) Twenty-fifth Judicial District. Clark and Madison.

(26) Twenty-sixth Judicial District. Harlan.

(27) Twenty-seventh Judicial District. Knox and Laurel.

(28) Twenty-eighth Judicial District. Pulaski and Rockcastle.

(29) Twenty-ninth Judicial District. Adair, ***and*** Casey[~~, Cumberland and Monroe~~].

(30) Thirtieth Judicial District. Jefferson.

(31) Thirty-first Judicial District. Floyd.

(32) Thirty-second Judicial District. Boyd.

(33) Thirty-third Judicial District. Perry.
(34) Thirty-fourth Judicial District. Whitley and McCreary.
(35) Thirty-fifth Judicial District. Pike.
(36) Thirty-sixth Judicial District. Magoffin and Knott.
(37) Thirty-seventh Judicial District. Carter, Elliott and Morgan.
(38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth Judicial District. Breathitt, Wolfe and Powell.
(40) Fortieth Judicial District. Clinton, Russell and Wayne.
(41) Forty-first Judicial District. Clay, Jackson and Leslie.
(42) Forty-second Judicial District. Calloway.
(43) Forty-third Judicial District. Barren and Metcalfe.
(44) Forty-fourth Judicial District. Bell.
(45) Forty-fifth Judicial District. Muhlenberg and McLean.
(46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
(47) Forty-seventh Judicial District. Letcher.
(48) Forty-eighth Judicial District. Franklin.
(49) Forty-ninth Judicial District. Allen and Simpson.
(50) Fiftieth Judicial District. Boyle and Mercer.
(51) Fifty-first Judicial District. Henderson.
(52) Fifty-second Judicial District. Graves.
(53) Fifty-third Judicial District. Shelby, Anderson and Spencer.
(54) Fifty-fourth Judicial District. Boone and Gallatin.
(55) Fifty-fifth Judicial District. Bullitt.
(56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon and Trigg.
(57) Fifty-seventh Judicial District. Nelson.
(58) Fifty-eighth Judicial District. Marshall.
(59) Fifty-ninth Judicial District. Ballard and Carlisle.
(60) Sixtieth Judicial District. Cumberland and Monroe.

Section 4. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1) Third Judicial District.
(2) Fourth Judicial District.
(3) Ninth Judicial District.
(4) Eleventh Judicial District.
(5) Twelfth Judicial District.
(6) Thirteenth Judicial District.
(7) Fourteenth Judicial District.
(8) Fifteenth Judicial District.
(9) Eighteenth Judicial District.
(10) Twenty-first Judicial District.
(11) Twenty-fourth Judicial District.
(12) Twenty-seventh Judicial District.
(13) Twenty-eighth Judicial District.
(14)[~~Twenty-ninth Judicial District.~~
~~(15)~~] Thirty-first Judicial District.
(15)[~~(16)~~] Thirty-second Judicial District.
(16)[~~(17)~~] Thirty-fourth Judicial District.

(17)[~~(18)~~] Thirty-fifth Judicial District.
(18)[~~(19)~~] Thirty-eighth Judicial District.
(19)[~~(20)~~] Fortieth Judicial District.
(20)[~~(21)~~] Forty-first Judicial District.
(21)[~~(22)~~] Forty-third Judicial District.
(22)[~~(23)~~] Forty-sixth Judicial District.
(23)[~~(24)~~] Forty-eighth Judicial District.
(24)[~~(25)~~] Fiftieth Judicial District.
(25)[~~(26)~~] Fifty-first Judicial District.
(26)[~~(27)~~] Fifty-third Judicial District.
(27)[~~(28)~~] Fifty-fourth Judicial District.
(28)[~~(29)~~] Fifty-fifth Judicial District.
(29)[~~(30)~~] Fifty-sixth Judicial District.

Section 5. (1) The present District Judge who resides in the Twenty-ninth Judicial District as amended by Section 3 of this Act shall remain the District Judge for the Twenty-ninth Judicial District.

(2) The present District Judge of the former Twenty-ninth Judicial District who resides in the Sixtieth Judicial District as created by Section 3 of this Act shall become the District Judge for the Sixtieth Judicial District.

(3) No new vacancy shall be created by Section 3 of this Act. Each present District Judge shall serve the district, as amended or created by Section 3 of this Act, in which he resides for the remainder of his present elected term.

Section 6. Whereas the action taken in this Act is necessary to effectuate provisions of the Judicial Branch budget for the 2000-2002 fiscal biennium, an emergency is declared to exist, and this Act takes effect July 1, 2000.

The Senate Committee Amendment No. 2 to the Senate Committee Substitute to **HB 430** is as follows:

On page 6, between lines 11 and 12, by inserting the following:

"Section 6. KRS 532.031 is amended to read as follows:

(1) A person may be found by the sentencing judge to have committed an offense specified below as a result of a hate crime if the person intentionally because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals violates a provision of any one (1) of the following:

(a) KRS 508.010, 508.020,[~~ or~~] 508.025***, or 508.030***;
(b) KRS 508.050 or 508.060;
(c) KRS 508.100 or 508.110;
(d) KRS 509.020;
(e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.100, or 510.110;
(f) KRS 512.020, 512.050, or 512.060;
(g) KRS 513.020, 513.030, or 513.040; or
(h) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.

(2) At sentencing, the sentencing judge shall determine if, by a preponderance of the evidence presented at the trial a hate crime was a primary factor in the commission of the crime by the defendant. If so, the judge shall make a written finding of fact and enter that in the court record and in the judgment rendered against the defendant.

(3) The finding that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the sentencing judge as the sole factor for denial of probation, shock probation, conditional discharge, or other form of nonimposition of a sentence of incarceration.

(4) The finding by the sentencing judge that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the Parole Board in delaying or denying parole to a defendant.", and by renumbering the subsequent section accordingly, and

On page 6, line 14, by inserting "Sections 1 to 5 of" after "and", and, on that same line by deleting "takes" and by inserting "take" in lieu thereof.

The Senate Committee Amendment No. 3 Title to **HB 430** is as follows:

By amending the title to read as follows: "AN ACT relating to the administration of justice and declaring an emergency."

Representative Lee moved that the House concur in the Senate Committee Substitute to **HB 430**. Agreed.

Representative Lee moved that the House concur in the Senate Committee Amendment No. 2 to the Senate Committee Substitute to **HB 430**. Agreed.

Representative Lee moved that **HB 430**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 80, Nays 14**. (See April 14, 2000 roll call on **HB 430** - Appendix.)

HB 430, by way of Senate Committee Substitute as amended by the Senate, was passed.

Representative Lee moved that the House concur in the Senate Committee Amendment No. 3 Title to **HB 430**. Agreed; and the title was agreed to.

Representative Lee moved that the vote by which **HB 430**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 394, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved that **SB 394** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See April 14 , 2000 roll call on **SB 394** - Appendix.)

SB 394 was passed and the title agreed to.

Representative Hoover moved that the vote by which **SB 394** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the adoption of the following **HR 198**:

HR 198, A CONCURRENT RESOLUTION adjourning the 2000 Regular Session of the General Assembly sine die.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. When the House of Representatives and the Senate adjourn on April 14, 2000, they do adjourn sine die.

There being no objection **HR 198** was adopted.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SB 256** and **SB 225** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:12 p.m.)

Motions, Petitions, and Communications

Representative Nesler moved the adoption of the following **Legislative Citation No. 192**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of L. M. Tipton Reed and offers its sincerest condolences to all those who share in the loss of this distinguished Kentucky citizen. The beloved husband of Vivian Waldrop Reed; cherished father of L. M. Tipton Reed, Jr., Thomas Jefferson Boyd Reed and Ralph Shannon Lee Reed; esteemed brother of Dr. Robert M. Reed and Janette Reed Yates; and the doting grandfather of eight grandchildren, Mr. Reed was an esteemed former member of the Kentucky House of Representatives who spoke on behalf of the citizens of Graves County with great passion and integrity. This distinguished gentleman, a graduate of Murray State University and the University of Kentucky, also served as the Commonwealth's Attorney for the 1st and 52nd judicial circuits and as president of the Kentucky Commonwealth's Attorney Association before his retirement. He will long be remembered for the distinct honor with which he lived his life and for the untiring enthusiasm that he exhibited while continually working towards the betterment of his community and this fine Commonwealth. The esteemed members of this honorable body join with Representative Fred Nesler in honoring the memory of this beloved gentleman for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 192 was adopted without objection.

Representative Nesler moved the adoption of the following **Legislative Citation No. 191**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Gladys Hughes and offers its sincerest condolences to all those who share in the loss of this highly-regarded Kentucky citizen. The beloved wife of the late Kelly Hughes; cherished mother of Bronda Sue Hall, Belinda Wallis, Deborah Price, Carl Hughes and Aubrey Hughes; esteemed sister of Joyce Dowdy, Katherine Conley, Mary Atkins, Alfred Westbrook, Jr., and Freeman Westbrook; and the doting grandmother of eight grandchildren and four great-grandchildren, this remarkable lady was a retired employee of Merit Clothing Company and a devoted member of the Gospel Light Baptist Church. The esteemed members of this honorable body join with Representative Fred Nesler in honoring the memory of Gladys Hughes for the valuable contributions her presence lent to her family, her friends and her community. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 191 was adopted without objection.

Representative Nesler moved the adoption of the following **Legislative Citation No. 190**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in reverent memory of Molton H. Sanderson and offers its sincerest condolences to all those who share in the loss of this highly-regarded Kentucky citizen. Beloved husband of Mary Lou Hughes Sanderson; cherished father of Duane Sanderson, Phyllis Jones, Sharon Sanderson-Town, Cynthia Sanderson, Carla Spears and the late Daryl Sanderson; adored brother of Weldon Sanderson, Leoma Moyers, Novell Puckett, Lillie Bright, Reda Meacham and Gloria Don Cannon; and doting grandfather of eleven grandchildren and two great-grandchildren, Mr. Sanderson was a kind father and a hard-working man who felt a deep devotion to both his family and to the land that he worked for nearly all of his life. A retired dairy farmer and an Army Air Corps veteran of World War II, Mr. Sanderson was a visionary who educated his children well and who, along with his industrious wife, devoted his life to the happiness and success of his children and to the survival of his family's farm. The members of this honorable body join with Representative Fred Nesler in honoring the memory of Molton Sanderson, whose legacy will live on in the form of the Molton H. Sanderson Agricultural Scholarship Fund, for the valuable contributions his presence lent to his family, his friends and the agricultural community of this fine Commonwealth. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 190 was adopted without objection.

Representative Barrows moved the adoption of the following **Legislative Citation No. 181**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Christopher E. Hydes and to express deepest sympathy to all who share in the loss through the tragic and untimely passing of this outstanding young Kentuckian, the beloved son of Betty J. Hydes and the cherished brother of Gregory E. Hydes and C.E. Hydes. A versatile young man who had many interests, he was a graduate of the University of Louisville; a devoted fan of both the University of Kentucky Wildcats and Jimmy Buffett; worked as an accountant for SHPS, Inc.; and followed with avid interest the actions of the Kentucky General Assembly. The members of this august body do join Representative Joe Barrows in remembering Christopher Hydes today; with gratitude for his remarkable presence, with sorrow for the brevity of his journey on this earth and with sincere and heartfelt condolences to his family and friends. Done in Frankfort, this fourteenth day of April, in the year two thousand

Legislative Citation No. 181 was adopted without objection.

Representative Gooch moved the adoption of the following **Legislative Citation No. 188**.

The House of Representatives of the Commonwealth of Kentucky do hereby adjourn this legislative day in loving memory of Donald Lloyd Burton and offer sincerest condolences to the Burton Family and to all those who share in the loss of this highly-regarded Kentucky citizen. The cherished son of Ima Doris Burton and the late R. L. Burton; beloved husband of Marilu Burton; devoted father of Roger Michael Burton and Kenton Lloyd Burton; and the cherished brother of Debra Meadows, Wayne Burton and Mack Burton, this esteemed gentleman was a U.S. Navy veteran of the Vietnam War; a coal miner and member of the UMWA; and a member of VFW Post #5484 and Wheatcroft Masonic Lodge #881. Active in the Democratic party in Webster County, he was a former member of the Webster County Fiscal Court and former Mayor of Wheatcroft. A devoted member of Philadelphian Christian Church, where he served as a deacon, Mr. Burton will long be remembered for the honor and integrity with which he lived his life and for the untiring dedication he exhibited while working for the betterment of his community. The members of this august body join Representative Jim Gooch, Jr., in honoring the memory of Donald Lloyd

Burton for the many and generous contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this fourteenth day of April, in the year two thousand.

Legislative Citation No. 188 was adopted without objection.

Report On Enrolled Bills (Continued)

HB 608 and **HB 996** delivered to the Senate and signed by the President. Delivered to the Governor on April 14, 2000, at 6:11 p.m.

Motions, Petitions, and Communications

Representative Tapp moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Tapp moved that his vote be changed from "yea" to "nay" on **SB 247**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wayne moved that he be recorded as voting "yea" on **SB 332** and **SB 256**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gooch moved that his vote be changed from "yea" to "nay" on **HB 430**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cox moved that his vote be changed from "nay" to "yea" on **HB 572**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 583**. Agreed.

Representative Childers moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Childers moved that he be recorded as voting "yea" on **HB 583**. Agreed.

Representative Cornett moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cornett moved that his vote be changed from "yea" to "nay" on **HB 430**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that his vote be changed from "yea" to "nay" on **SB 332**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative P. Clark moved that he be recorded as voting "nay" on **HB 584** and **HB 656**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on Floor Amendment No. 1 to **HB 502**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **SB 58**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Anderson moved that he be recorded as voting "yea" on **HB 996**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 996**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "nay" on **HB 996**. Agreed.

Representative Upchurch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Upchurch moved that he be recorded as voting "nay" on **HB 996**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that his vote be changed from "yea" to "nay" on **HB 996**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Westrom moved that she be recorded as voting "nay" on **HB 629, HB 745, HCR 54,** and **HR 69**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 144, HB 177, HB 218, HB 300, HB 360, HB 430, HB 452, HB 471, HB 636, HB 750, HB 771, HB 794, HB 806, HB 936, HB 1000, HCR 34, HCR 37,** and **HR 140**. Agreed.

Representative Tapp moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Tapp moved that his vote be changed from "yea" to "nay" on **HB 430**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Anderson moved that he be recorded as voting "nay" on **HB 577**. Agreed.

Representative Anderson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Anderson moved that he be recorded as voting "yea" on **HB 502**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "nay" on **HB 576**. Agreed.

Representative Upchurch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Upchurch moved that his vote be changed from "yea" to "nay" on **HB 430**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" to override the Governor's veto on **HB 331**. Agreed.

Representative Worthington moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Worthington moved that he be recorded as voting "yea" on **SB 1**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that his vote be changed from "yea" to "nay" on **HB 996**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that his vote be changed from abstain to "yea" on **SB 409**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" to override the Governor's veto on **HB 331**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" to override the Governor's veto on **HB 331**. Agreed.

Representative Branham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Branham moved that he be recorded as voting "yea" on **HB 70, HB 856,** and **HB 331**. Agreed.

Representative Heleringer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Heleringer moved that he be recorded as voting "yea" on **HB 577**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HB 331**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that his vote be changed from "yea" to "nay" on **HB 430**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HR 180**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that his vote be changed from "yea" to "nay" on **HB 430**. Agreed.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 502, HB 576,** and **HB 577** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -7:30 p.m.)

Senate Message (Continued)

Message in regard to **HB 331**: The Senate has voted to pass **HB 331**, the objections of the Governor notwithstanding, and is respectfully returning same to this Honorable Body.

Message in regard to **HB 856**: The Senate has voted to pass **HB 856**, the objections of the Governor notwithstanding, and is respectfully returning same to this Honorable Body.

Message in regard to **HB 936**: The Senate has passed **HB 936** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (Time: 7:20 p.m.)

Orders of the Day (Continued)

SB 315, with House Committee Substitute, House Floor Amendments, and House Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that the rules be suspended to consider House Floor Amendment No. 8 to **SB 315**.

On the roll call the vote was: **Yeas 77, Nays 0**. (See April 14, 2000 roll call to consider House Floor Amendment No. 8 to **SB 315**-Appendix.)

The motion to consider House Floor Amendment No. 8 to **SB 315** was adopted.

Representative Moberly moved the adoption of House Floor Amendment No. 8 to **SB 315**. Agreed.

Representative Moberly moved the adoption of the House Committee Substitute to **SB 315**. Agreed.

Representative Moberly moved that **SB 315**, by way of House Committee Substitute as amended, be passed.

Representative Johns moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 315**.

Representative Walton inquired if House Floor Amendment No. 1 to the House Committee Substitute to **SB 315** was germane.

The Speaker ruled that House Floor Amendment No. 1 to the House Committee Substitute to **SB 315** was germane.

Representative Johns moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 315**.

On the roll call the vote was: **Yeas 84, Nays 6**. (See April 14, 2000 roll call on the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 315** - Appendix.)

House Floor Amendment No. 1 to the House Committee Substitute to **SB 315** was adopted.

Representative Moberly moved that the vote by which the House Committee Substitute to **SB 315** was adopted be reconsidered.

On the roll call the vote was: **Yeas 72, Nays 13**. (See April 14, 2000 roll call on the motion that the vote by which the House Committee Substitute to **SB 315** was adopted be reconsidered- Appendix.)

The motion that the vote by which the House Committee Substitute to **SB 315** was adopted be reconsidered was adopted.

Representative Moberly moved that **SB 315**, as amended, be passed.

On the roll call the vote was: **Yeas 82, Nays 9**. (See April 14, 2000 roll call on **SB 315** - Appendix.)

SB 315, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 315**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 502, HB 576, and **HB 577** delivered to the Senate and signed by the President. Delivered to the Governor on April 14, 2000, at 7:46 p.m.

Orders of the Day (Continued)

HJR 83 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the motion that **HJR 83** be taken from the Order's of the Day be withdrawn. Agreed.

HB 936, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 936** is as follows:

On page 1, by deleting lines 1 to 24; and

On page 2, by deleting lines 1 to 3; and inserting in lieu thereof:

"Section 1. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly***, in odd-numbered years,*** shall meet ***in regular session for a period not to exceed a total of thirty (30) legislative days divided as follows: The General Assembly shall convene for the first part of the session*** on the first Tuesday after the first Monday in January in odd-numbered years [~~for a period not to exceed ten legislative days~~]for the purposes of electing legislative leaders, adopting rules of procedure,[~~, and the~~] organizing[~~ of~~] committees***, and introducing and considering legislation***. ***The General Assembly shall then adjourn. The General Assembly shall convene for the second part of the session on the first Tuesday in February of that year. Any legislation introduced but not enacted in the first part of the session shall be carried over into the second part of the session. In any part of the session in an odd-numbered year, no bill raising revenue or appropriating funds shall become a law unless it shall be agreed to by three-fifths of all the members elected to each House.***

(2) The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session.

(3) ***All***[~~, and its~~] sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 2. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:

The members of the General Assembly shall severally receive from the State Treasury compensation for their services: Provided, No change shall take effect during the session at which it is made; ***nor shall a session occurring in odd-numbered years extend beyond March 30;*** nor shall a session of the General Assembly ***occurring in even-numbered years*** continue beyond sixty legislative days, ***nor shall it extend beyond April 15***[~~exclusive of Sundays, legal holidays or any day on which neither House meets, except that no regular session shall extend beyond April 15 of even-numbered years~~]; ***these***[~~but this~~] limitations as to length of sessions shall not apply to the Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day***, exclusive of Sundays, legal holidays, or any day on which neither House meets***."; and

On page 2, line 6, after "KRS 118.415." by deleting the remainder of line 6; and
On page 2, by deleting lines 7 to 9 in their entirety.

Representative Stumbo moved that the House concur in Senate Floor Amendment No. 1 to **HB 936**. Agreed.

Representative Stumbo moved that **HB 936**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 79, Nays 15**. (See April 14, 2000 roll call on **HB 936** - Appendix.)

HB 936, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 936**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **HB 415** and **HB 511**. (Time: 8:30 p.m.)

Message in regard to **HJR 83**: The Senate has passed **HJR 83** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HJR 84**: The Senate has passed **HJR 84** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HJR 85**: The Senate has passed **HJR 85** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Orders of the Day (Continued)

HJR 83, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 83** is as follows:

HJR 83, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2000-2002 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2000-2002 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2000-2002 State/Executive Branch Budget Bill or the 2000-2002 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 2000-2002 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2000-2002 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2000 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2000-2002 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2000-2002 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2000-2002 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2000-2002 State/Executive Branch Budget Memorandum is as follows:

Representative Moberly moved that the House concur in Senate Committee Substitute to **HJR 83**. Agreed.

Representative Moberly moved that **HJR 83**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 93**, **Nays 0**. (See April 14, 2000 roll call on **HJR 83** - Appendix.)

HJR 83, by way of Senate Committee Substitute, was adopted.

Representative Moberly moved that the vote by which **HJR 83**, by way of Senate Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 84, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 84** is as follows:

HJR 84, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2000-2002 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2000-2002 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2000-2002 Judicial Branch Budget Bill or the 2000-2002 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 2000-2002 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2000-2002 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2000 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2000-2002 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2000-2002 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2000-2002 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2000-2002 Judicial Branch Budget Memorandum is as follows:

Representative Moberly moved that the House concur in Senate Committee Substitute to **HJR 84**. Agreed.

Representative Moberly moved that **HJR 84**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 89, Nays 4**. (See April 14, 2000 roll call on **HJR 84** - Appendix.)

HJR 84, by way of Senate Committee Substitute, was adopted.

Representative Moberly moved that the vote by which **HJR 84**, by way of Senate Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 85, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HJR 85** is as follows:

HJR 85, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2000-2002 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2000-2002 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2000-2002 Legislative Branch Budget Bill or the 2000-2002 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 2000-2002 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2000-2002 Legislative Branch Budget Bill or appropriations contained in any other enactment of the 2000 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2000-2002 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2000-2002 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2000-2002 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Section 5. The 2000-2002 Legislative Branch Budget Memorandum is as follows:

Representative Moberly moved that the House concur in Senate Committee Substitute to **HJR 85**. Agreed.

Representative Moberly moved that **HJR 85**, by way of Senate Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 94, Nays 1**. (See April 14, 2000 roll call on **HJR 85** - Appendix.)

HJR 85, by way of Senate Committee Substitute, was adopted.

Representative Moberly moved that the vote by which **HJR 85**, by way of Senate Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the adoption of the following **HR 188**:

HR 188, A RESOLUTION honoring Floyd County upon the occasion of its Bicentennial Celebration.

WHEREAS, on December 13, 1799, the Kentucky General Assembly enacted the bill creating Floyd County, and it became effective on June 1, 1800; Floyd County, the fortieth county in order of formation in our great Commonwealth, is part of the Cumberland Plateau, and it is located in the Big Sandy area of eastern Kentucky; and with Prestonsburg designated as the county seat, Floyd County comprises an area of 393 square miles, and it is bordered by Johnson, Martin, Pike, Knott, and Magoffin Counties; and

WHEREAS, twenty-seven years before Floyd County was created, famous Kentucky pioneer and trailblazer, Daniel Boone, spent the winter of 1773 in Floyd County on the waters of Lick Fork of Middle Creek of the Big Sandy River, where he worked a salt deposit while waiting for his companion, William Hill, to return from North Carolina with much needed ammunition; and

WHEREAS, Floyd County is named in honor of Colonel John Floyd, a pioneer explorer, and well-known surveyor under Colonel William Preston, for whom Prestonsburg is named. In July, 1776, Colonel John Floyd accompanied Daniel Boone in the rescue of his daughter, Jemima, and Elizabeth and Fanny Callaway who had been captured by the Indians. He also accompanied General George Rogers Clark on several of his expeditions; and

WHEREAS, the importance of the pioneer era cannot be overstated, for the pioneers gave the supreme sacrifice of their lives for future generations, and Floyd County played an integral role in the lives of these first pioneers; they endured many hardships and disasters, and struggled daily with the threat of Indian ambush, as recollected in the famous folktale of Jenny Wiley, a young woman captured by the Cherokee Indians and held prisoner for eleven months. Her courageous escape entailed crossing the Levisa Fork of the Big Sandy River to where she found safety at Harmon's Station Blockhouse, the earliest settlement in eastern Kentucky. Due to her courage and fortitude, the 1,700 acre Jenny Wiley State Resort Park was named in her honor; and Dewey Dam provides flood control and forms Dewey Lake, the focus of the park; and

WHEREAS, with the penetration of the railroad in 1903, coal mining became and continues to be an important economic resource in Floyd County; and the oil and gas industry and the abundance of timber are important to the economy and character of Floyd County, and these industries have enhanced the livelihoods of many of her citizens; and

WHEREAS, Bert T. Combs, a notable Kentuckian, and longtime resident of Floyd County, fondly referred to in earlier years as "The Little Judge," was Governor of Kentucky from 1959-63; having been ever mindful of the needs of his people, it was due to his insight and dedication to them that eastern Kentucky was connected to the rest of the Commonwealth through the construction of the Mountain Parkway; and now eastern Kentucky is crisscrossed with modern highways, such as Kentucky Route 80, Kentucky Route 3, and famous U. S. Route 23, the Country Music Highway; Governor Combs' education program included the construction of Prestonsburg Community College of the University of Kentucky, which serves a five county area including Floyd, Johnson, Magoffin, Pike, and Martin Counties. The college provides pre-baccalaureate education, technical and career programs, community service, and continuing education programs; and in more recent years, the Morehead State University extended campus, located in Prestonsburg, offers evening classes in telecommunications, nursing, education, business, and social work; and

WHEREAS, also instrumental to the citizens of Floyd County and eastern Kentucky was the creation of the Mountain Arts Center and Home of the Kentucky Opry, in 1996, where both programs are dedicated to showcasing the talent of eastern Kentucky, as well as being a school of music for the youth of eastern Kentucky, and attracting national artists for entertainment; and

WHEREAS, other aspects of life in Floyd County have progressed due to the hardworking citizenry, including health care, education, technology, industry, and manufacturing relating to coal resources, banking, tourism, and numerous retail businesses. While Floyd County's business community has progressed parallel to other areas of Kentucky, its people have held steadfast to its rich folk ways; and

WHEREAS, the citizens of Floyd County are proud of their rich heritage, and the contributions Floyd County has made to this great Commonwealth these two hundred years of her existence; her citizens, through their courage, leadership, and dedication, blazed important trails opening the way for progress, while preserving the rich heritage and traditions for which eastern Kentucky is so revered;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives, in recognition of the two hundredth anniversary celebration of Floyd County, and in further recognition of the social, cultural, educational, and economic advancements of Floyd County and her residents throughout the course of these two hundred years, joins the fine citizens of that fair county in the jubilant celebration of Floyd County's Bicentennial.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Floyd County's Bicentennial celebration.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Floyd

County Bicentennial Committee, 113 South Central Avenue, Prestonsburg 41653.

There being no objection **HR 188** was adopted.

Motions, Petitions, and Communications (Continued)

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "nay" on **SB 315**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that her vote be changed from "yea" to "nay" on **SB 315**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that her vote be changed from "yea" to "nay" on **HB 315**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "nay" on **HB 430**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "nay" on Floor Amendment to **HB 315**. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns today, it does so until the first Tuesday following the first Monday in 2001 unless called into Extraordinary Session by the Governor. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for Senate Messages and Enrollment of Bills. Agreed.

Recess (Continued)

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 70, HB 331, HB 856, HB 936, HB 415, HB 430, HB 511, HJR 83, HJR 84, HJR 85,** and **HB 611** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -9:35 p.m.)

HB 415, HB 430, HB 511, HJR 83, HJR 84, HJR 85, and **HB 611** delivered to the Senate and signed by the President. Delivered to the Governor on April 11, 2000, at 9:47 p.m.

HB 70, HB 331, HB 856, and **HB 936,** delivered to the Senate and signed by the President. Delivered to the Secretary of State on April 17, 2000, at 9:01 a.m.

The Committee on Enrollment reported that **SB 394, SB 1, SB 313, SB 409,** and **SB 315** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:03 p.m.)

Representative Stumbo moved that the reading of the Journal of April 14, 2000, be dispensed with and the same approved. Agreed.

Representative Stumbo moved that the Journal of the 2000 Regular Session, be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 2 to the House Committee Substitute to **SB 256**, by Representative Geveden:

On page 34, between lines 10 and 11, to insert the following:

"Section 20. KRS 527.070 is amended to read as follows:

(1) A person is guilty of unlawful possession of a weapon on school property when he knowingly deposits, possesses, or carries, whether openly or concealed, for purposes other than instructional or school-sanctioned ceremonial purposes, or the purposes permitted in subsection (3) of this section, any firearm or other deadly weapon, destructive device, or booby trap device in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field, or any other property owned, used, or operated by any board of education, school, board of trustees, regents, or directors for the administration of any public or private educational institution. The provisions of this section shall not apply to institutions of postsecondary or higher education.

(2) Each chief administrator of a public or private school shall display about the school in prominent locations, including, but not limited to, sports arenas, gymnasiums, stadiums, and cafeterias, a sign at least six (6) inches high and fourteen (14) inches wide stating:

UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL
PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE
BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A
TEN THOUSAND DOLLAR ($10,000) FINE.

Failure to post the sign shall not relieve any person of liability under this section.

(3) The provisions of this section prohibiting the unlawful possession of a weapon on school property shall not apply to:

(a) An adult who ***is not a student enrolled in an elementary or secondary school*** who possesses a firearm, if the firearm is contained within a vehicle operated by the adult and is not removed from the vehicle, except for a purpose permitted herein, or brandished by the adult, or by any other person acting with expressed or implied consent of the adult, while the vehicle is on school property;

(b) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a school club or team, to the extent they are required to carry arms or weapons in the discharge of their official class or team duties;

(c) Any peace officer or police officer authorized to carry a concealed weapon pursuant to KRS 527.020;

(d) Persons employed by the Armed Forces of the United States or members of the National Guard or militia when required in the discharge of their official duties to carry arms or weapons;

(e) Civil officers of the United States in the discharge of their official duties. Nothing in this section shall be construed as to allow any person to carry a concealed weapon into a public or private elementary or secondary school building;

(f) Any other persons, including, but not limited to, exhibitors of historical displays, who have been authorized to carry a firearm by the board of education or board of trustees of the public or private institution;

(g) A person hunting during the lawful hunting season on lands owned by any public or private educational institution and designated as open to hunting by the board of education or board of trustees of the educational institution;

(h) A person possessing unloaded hunting weapons while traversing the grounds of any public or private educational institution for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands, unless the lands of the educational institution are posted prohibiting the entry; or

(i) A person possessing guns or knives when conducting or attending a "gun and knife show" when the program has been approved by the board of education or board of trustees of the educational institution.

(4) Unlawful possession of a weapon on school property is a Class D felony."; and

On page 34, line 11, to delete "Section 20" and to insert in lieu thereof "Section 21.".

Adjournment

Representative Stumbo moved to adjourn sine die until the first Tuesday after the first Monday in January 2001, unless called into Extraordinary Session by the Governor.

The motion that the House adjourn sine die until the first Tuesday after the first Monday in January 2001, unless called into Extraordinary Session by the Governor was adopted by voice vote.